



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 4 February 2013

6013/13

**Interinstitutional File:
2013/0015 (COD)**

**TRANS 39
CODEC 226**

PROPOSAL

from:	European Commission
dated:	31 January 2013
No Cion doc.:	COM(2013) 30 final
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the interoperability of the rail system within the European Union (Recast)

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2013) 30 final



Brussels, 30.1.2013
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Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the interoperability of the rail system within the European Union

(Recast)

(Text with EEA relevance)

{SWD(2013) 8}

{SWD(2013) 9}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

1.1. Recent EU policy developments in the railway field

In its White Paper ‘Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system’, adopted on 28 March 2011 (‘2011 White Paper’), the Commission announced its vision for the establishment of a Single European Railway Area, clarifying that this objective implies creating an internal railway market where European railway undertakings can provide services free from unnecessary technical and administrative barriers.

Moreover, the European Council conclusions of January 2012 highlight the importance of releasing the growth-creating potential of a fully integrated Single Market, including as regards network industries¹. Furthermore, the Commission Communication on Action for Stability, Growth and Jobs adopted on 30 May 2012² stresses the importance of a further reduction in the regulatory burden and barriers to entry in the rail sector, making country-specific recommendations in that direction. In the same vein, on 6 June 2012 the Commission adopted the Communication on strengthening the governance of the single market, which likewise stresses the importance of the transport sector³.

In the last decade, the EU railway market has seen massive changes, gradually introduced by three legislative ‘railway packages’ (with some accompanying acts) intended to open up national markets and make railways more competitive and interoperable at the EU level, while maintaining high levels of safety. However, despite the considerable development of the ‘EU *acquis*’ establishing an internal market for rail transport services, the modal share of rail in intra-EU transport remains modest. Thus, the Commission has planned to come forward with the fourth railway package in order to enhance the quality and efficiency of rail services by removing the remaining market obstacles. This Directive is a component of the fourth railway package, focusing on the removal of remaining administrative and technical barriers, in particular by: establishing a common approach to safety and interoperability rules to increase economies of scale for railway undertakings active across the EU; decreasing administrative costs and accelerating administrative procedures; and by avoiding disguised discrimination.

1.2. Legal framework for interoperability

Under the Treaty on the Functioning of the European Union (Articles 170 and 171), the Union must contribute to the establishment and development of trans-European networks in the areas of transport. In order to achieve these objectives, the Union must take any measures necessary to ensure the interoperability of the networks, particularly in the field of technical standardisation.

The initial measures taken in the rail sector were Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC on the interoperability

¹ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/127599.pdf.

² COM(2012) 299 final.

³ COM(2012) 259 final.

of the trans-European conventional rail system, amended by Directive 2004/50/EC. These Directives were recast by Directive 2008/57/EC on the interoperability of the rail system within the Community, which is currently in force as amended by Directive 2009/131/EC and Directive 2011/18/EU.

1.3. Why recast interoperability Directive 2008/57/EC as amended?

Several lessons have been learned based on the work done on developing TSIs, the application of the interoperability Directives to specific projects, the work of the Committee set up under Article 29 of Directive 2008/57/EC and feedback from stakeholders. Furthermore, the legislative context for the marketing of products has evolved in recent years, with the result that the interoperability legislation needs to be updated.

On this basis, the Commission intends to propose a number of changes to Directive 2008/57/EC, which can be grouped into three different categories:

- new provisions: a number of new definitions, the concept of a vehicle authorisation for placing on the market, and some provisions on registers;
- clarification of existing provisions: scope of the Directive, application of TSI to existing systems, TSI derogations, TSI deficiencies and applicability of national rules;
- updates due to the evolution of the legislative framework: provisions concerning conformity assessment and conformity assessment bodies, as well as references to comitology procedures and delegated acts;
- editorial changes: consolidation of previous amendments to the text of the Directive, renumbering of articles and annexes, references to other components of the fourth railway package, targeted rewording of a few sentences to avoid translation ambiguities.

2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENTS

The European Commission carried out a thorough impact assessment to support legislative proposals for improving the efficiency and competitiveness of the Single European Railway Area in the field of interoperability and safety.

An Impact Assessment Steering Group (IASG) was created in June 2011. While all DGs were invited by DG MOVE to participate, the DGs most concerned were ENTR, EMPL, SG, SJ, HR, RTD, BUDG, REGIO, ENER and ELARG.

The Commission departments have discussed developments in the Single European Railway Area with sector representatives on an ongoing basis. In 2010-2011 they also conducted an ex-post evaluation of Regulation 881/2004 establishing the European Railway Agency.

To support the Commission in the impact assessment process, an external consultant was tasked to prepare an impact assessment support study and to undertake a targeted consultation of stakeholders.

The targeted consultation of interested parties started on 18 November 2011 with an internet survey which finished on 30 December 2011. It was followed by interviews with major stakeholders and a stakeholder workshop at the end of February 2012.

Since then, DG MOVE has taken part in bilateral meetings with the sector to gauge their views on what should be done in the fourth railway package with respect to interoperability and safety.

Given the technical nature of the initiative, there was no public consultation. However, the Commission made sure that all interested parties were consulted at the appropriate time and that the discussions covered all the key elements of the initiative.

More information on the impact assessment and the results of the stakeholder consultation is provided in the Commission staff working document accompanying legislative proposals to eliminate remaining administrative and technical barriers in the field of interoperability and safety on the EU railway market.

3. LEGAL ELEMENTS OF THE PROPOSAL

This section provides comments and explanations relating to significant changes in the text of the Directive. It does not provide detailed comments on minor changes introduced as a consequence of the Lisbon Treaty, editorial modifications and other obvious amendments.

The numbering corresponds to the renumbered articles and annexes, unless preceded by ‘ex’, in which case it refers to the numbering as it is in Directive 2008/57/EC.

CHAPTER I

Article 1

The Commission services, together with the committee referred to in Article 29 of Directive 2008/57/EC, had already addressed in February 2009 the clarification of the scope of the Directive as far as lines and vehicles used for local, urban and suburban services were concerned. The conclusion of this analysis was a three-fold approach: i) exclusion of urban rail and clarification of the scope; ii) development of a dedicated urban rail European voluntary standardisation framework; and iii) development of essential requirements for urban transport.

The first action was initiated in October 2009, when the Commission services invited Member States to exclude from the scope of the measures transposing Directive 2008/57/EC cases (a) and (b) as defined in its Article 1(3). This was to avoid a situation in which a Member State might apply the Directive to de facto cases not covered by the TSIs. Such a situation would in fact imply that Member States notify all national rules in use for metro, tram and light rail systems in the absence of TSIs and follow for these systems all the procedures set out by the Directive for heavy rail, which would amount to a disproportionate administrative, technical and legal burden. To avoid this situation, the proposed amendment formalises in paragraph 3 the indication already given by the Commission services in October 2009, thus completing the first action.

The second action was formally initiated in February 2011, when the Commission issued a mandate addressed to the European standardisation bodies to develop voluntary standards in urban rail.

To contribute to the abovementioned third action, in October 2011 the associations representing the urban rail sector issued a set of ‘fundamental requirements’, which are being used as basic references for the execution of the urban rail standardisation programme proposed by CEN/CENELEC and ETSI in October 2011.

On this basis, interoperability for local, urban and suburban systems is considered to be adequately addressed in the voluntary field and does not need to be covered by this Directive.

Article 2

For the sake of clarity, and to take account of the evolution of the legal framework, some definitions have been reworded or added.

Ex Article 3

It has been deleted because redundant with Article 1.

Article 3

No substantial change.

CHAPTER II

Article 4

Further provisions are to be specified in the TSIs to cover existing subsystems and to enable railway undertakings to check compatibility between vehicles and routes on which these vehicles are intended to be operated.

Article 5

No substantial change, apart from those required by the Lisbon Treaty.

Article 6

This clarifies the use of Agency opinions pending the amendment of TSIs as a result of deficiencies discovered.

Ex Article 7

This article has been deleted because it has become obsolete. In fact, the TSIs will have been extended by the time this Directive enters into force.

Article 7

The cases of possible non-application of TSIs have been reduced because case 1(b) of Article 9 of the current Directive is unclear, has never been used and could be covered, as in cases 1(c) and 1(f), by specific cases in TSIs.

Articles 8, 9 and 10

No substantial change, apart from those required by the Lisbon Treaty.

Ex Article 12

Deleted because covered by Directive 1025/2012/EU.

Article 11

No substantial change.

CHAPTER IV

Ex Article 15

Its provisions are transferred to articles in Chapter V.

Article 12

No substantial change.

Articles 13 and 14

These articles have been reworded for consistency with the revised text of this Directive and for consistency with the Agency Regulation and the Safety Directive. They clarify the role of national rules, the cases in which national rules may be introduced, and the procedures for their withdrawal and their publication.

The Agency retains its tasks concerning the classification of national rules (ex Article 27); in addition, the Agency shall examine notified national rules and invite Member States to repeal them in case of redundancy or incompatibility with the EU legislation.

Article 15

It clarifies the circumstances which trigger a new EC declaration of verification.

Article 16

No substantial change.

Article 17

It recalls the general principle of presumption of conformity set out in Directive 1025/2012/EU.

Ex Article 20

Some of the content has been clarified and transferred to Chapter V. The remaining content is already covered by Article 7 (non-application of TSIs).

CHAPTER V

Ex Articles 21 to 25 have been deleted and replaced with new articles 18 to 20.

Article 18

For fixed installations the procedure is practically identical to that of Directive 2008/57, except for trackside control-command and signalling subsystems, which will be authorised by the Agency for consistency with the corresponding on-board subsystems.

Article 19

It addresses the placing on the market of mobile subsystems, which can be done by both railway undertakings and manufacturers. In practice, mobile subsystems are not placed in service individually; their placing in service is done when they are integrated in a vehicle, and the placing in service of a vehicle is addressed in Article 21.

Article 20

It introduces the notion of vehicle authorisation for placing on the market, which is partially replacing the concept of vehicle authorisation for placing in service issued by the national safety authority as set out in Directive 2008/57/EC.

The vehicle authorisation for placing on the market is issued by the Agency and contains all information needed later by the railway undertaking to place a vehicle in commercial service. The applicant (railway undertaking, manufacturer, etc.) may ask the Agency to complement the vehicle authorisation for placing on the market with a statement concerning the technical compatibility of the vehicle with a particular set of lines or networks defined by the applicant on the basis of commercial and/or technical considerations. This complementary statement will facilitate the railway undertaking in its task of placing the vehicle in service.

Article 21

It clarifies the role of railway undertakings and infrastructure managers in checking the technical compatibility of the vehicle with the route and the safe integration of the vehicle in the system in which it is intended to operate.

Article 22

It concerns the authorisation for placing on the market for types of vehicles and has been amended to reflect the provisions of Articles 18 to 21.

ex Article 27

It has been deleted because some of its provisions have been transferred to the Agency Regulation.

CHAPTER VI

Articles 23 to 41 concerning conformity assessment bodies replace and complement ex Article 28 and ex Annex VIII to include the provisions of the new legislative framework for the marketing of products as defined in Decision 768/2008/EC.

Ex Article 31

This article has been deleted because it is obsolete.

CHAPTER VII

Articles 42 to 45 on EVN and registers have been updated to reflect the provisions of Chapter V.

Ex Article 36

This article has been deleted because it is obsolete.

CHAPTER VIII

Articles 46 and 47

These articles concern the delegation of powers to the Commission under the Lisbon Treaty.

Article 48

It has been modified to take into account the new comitology procedures.

Ex Article 30

This article has been deleted because it is obsolete.

Articles 49 and 50

These articles have been updated for consistency with the text of this Directive.

Article 51

It includes the new provisions with respect to the transitional regime for placing in service of vehicles. This will enable the parallel application of both regimes (Directive 2008/57/EC and this Directive) for a limited period.

Article 52

As a consequence of the Lisbon Treaty, a number of Annexes to Directive 2008/57/EC are transformed into implementing acts to be adopted by the Commission. This article sets out the provisions to be applied until the date of application of those implementing acts.

Articles 53

It provides for correspondence tables to be communicated by Member States when transposing this Directive into national legislation. These tables are needed because of the substantial changes introduced by this Directive in Chapters V and VI and are considered necessary to enable all actors to easily identify the national legislation applicable.

Article 54

New article concerning the role of Agency opinions and recommendations.

Articles 55 to 57

They have been updated for consistency with the text of this Directive.

Annex I

There is no longer any mention of the trans-European rail system because the TSIs will have been extended de facto by the time this Directive enters into force.

The separation between high-speed (HS) and conventional rail (CR) has also been removed in view of the merging of a number of HS and CR TSIs.

Taking account of the above, the classification of vehicles has been simplified.

Annexes II and III

No substantial change.

Ex Annex IV

It is transformed into an implementing act, see Article 8(2).

Ex Annexes V and VI

They are transformed into implementing acts, see Article 15(7).

Ex Annex VII

It is transformed into an implementing act, see Article 14(8).

Ex Annex VIII

This article has been deleted because it is included in Articles 27, 28 and 29.

Ex Annex IX

It is transformed into an implementing act, see Article 7(3).

Annexes IV and V

They have been updated for consistency with the text of this Directive.

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the interoperability of the rail system within the European Union

(Recast)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union ~~establishing the European Community~~, and in particular Articles ~~71 and 156~~ ☒ 91(1), 170 and 171 ☒ thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

~~Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system³ 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 system⁴ were substantially amended by Directive 2004/50/EC of the European Parliament and of the Council⁵. As new amendments are now being introduced, it is appropriate to recast the~~

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ L 235, 17.9.1996, p. 6. Directive as last amended by Commission Directive 2007/32/EC (OJ L 141, 2.6.2007, p. 63).

⁴ OJ L 110, 20.4.2001, p. 1. Directive as last amended by Directive 2007/32/EC.

⁵ 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

~~Directives for the sake of clarity and merge their provisions together into a single instrument with a view to simplification.~~

↓ new

- (1) Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community⁶ has been substantially amended several times. Since further amendments are to be made, that Directive should be recast in the interests of clarity.
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↓ 2008/57/EC recital 2 (adapted)

- (2) 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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↓ new

- (3) The pursuit of interoperability within the Union's rail system should lead to the definition of an optimal level of technical harmonisation and make it possible to facilitate, improve and develop international rail transport services within the Union and with third countries and contribute to the progressive creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the rail system within the Union.
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↓ 2008/57/EC recital 3 (adapted)

~~By signing the Protocol adopted in Kyoto on 12 December 1997 the European Union has undertaken to reduce its greenhouse 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.~~

↓ 2008/57/EC recital 43 (adapted)

~~The Community strategy for the integration of environmental and sustainable development concerns into its transport policy highlights the need to act to reduce the environmental impact of transport.~~

↓ 2008/57/EC recital 5

- (4) The commercial operation of trains throughout the rail network requires in particular excellent compatibility between the characteristics of the infrastructure and those of
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~~trans-European conventional rail system (OJ L 164, 30.4.2004, p. 114. Corrected by OJ L 220, 21.6.2004, p. 40).~~

⁶ OJ L 191, 18.7.2008, p. 1.

the vehicles, as well as efficient interconnection of the information and communication systems of the different infrastructure managers and railway undertakings. Performance levels, safety, quality of service and cost depend upon such compatibility and interconnection, as does, in particular, the interoperability of the rail system.

↓ 2008/57/EC recital 6 (adapted)
⇒ new

- (5) ~~Member States are responsible~~ ⇒ The railway regulatory framework should set clear responsibilities ⇐ 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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↓ 2008/57/EC recital 7 (adapted)

- (6) There are major differences between ~~the~~ national regulations, ~~and between~~ internal rules and technical specifications ~~which the railways apply~~ ☒ applicable to rail systems, subsystems and components ☒, 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~~ ☒ Union ☒ network.
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↓ 2008/57/EC recital 8 (adapted)
⇒ new

- (7) Over the years, this situation has created very close links between the national railway industries and the national railways, to the detriment of ~~the~~ ☒ a ☒ genuine opening-up of markets ⇒ allowing new entrants to emerge ⇐. In order to enhance their competitiveness at world level, these industries require an open, competitive European market.
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↓ 2008/57/EC recital 9 (adapted)
⇒ new

- (8) It is therefore appropriate to define ~~basic~~ essential requirements ⇒ related to rail interoperability ⇐ for the whole of the ~~Community~~ ☒ Union ☒ which ~~will~~ ☒ should ☒ apply to its rail system.
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↓ 2008/57/EC recital 10

~~To achieve these objectives an initial measure was taken by the Council on 23 July 1996 with the adoption of Directive 96/48/EC. The European Parliament and the Council subsequently adopted Directive 2001/16/EC.~~

↓ 2008/57/EC recital 11

~~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 railways⁷, 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 undertakings⁸ 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 certification⁹ has had 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.~~

↓ 2008/57/EC recital 12 (adapted)
⇒ new

- (9) The development of technical specifications for interoperability (TSIs) has shown the need to clarify the relationship between the essential requirements 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~~ ☒ should ☒ be made mandatory in order to achieve the objectives of this Directive, and the "harmonised standards" that have been developed ⇒ in accordance with Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council¹⁰ ⇐ ~~in the spirit of the new approach to technical harmonisation and standardisation.~~ ⇒ Where strictly necessary, the TSIs may make an explicit reference to European standards or specifications, which become mandatory from the moment the TSI is applicable. ⇐
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↓ new

- (10) In order to genuinely increase the competitiveness of the Union railway sector without distorting competition between key actors of the rail system, the TSIs, should be drafted by respecting the principles of openness, consensus and transparency as defined in Annex II to Regulation (EU) No 1025/2012.
- (11) The quality of rail services in the Union depends, *inter alia*, on excellent compatibility between the characteristics of the network in the broadest sense, including the fixed parts of all the subsystems concerned and those of the vehicles including the onboard components of all the subsystems concerned. Performance levels, safety, quality of service and cost depend upon that compatibility.

⁷ OJ L 75, 15.3.2001, p. 1.

⁸ OJ L 75, 15.3.2001, p. 26.

⁹ OJ L 75, 15.3.2001, p. 29. Directive as last amended by Commission Directive 2007/58/EC (OJ L 315, 3.12.2007, p. 44).

¹⁰ OJ L 316, 14.11.2012, p. 12.

↓ 2008/57/EC recital 13

~~As a rule, 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 this Directive, 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.~~

↓ 2008/57/EC recital 14

~~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.~~

↓ 2008/57/EC recital 15 (adapted)

- (12) A TSI sets all the conditions with which an interoperability constituent ~~must~~ ☒ should ☒ conform, and the procedure to be followed in assessing conformity. In addition, it is necessary to specify that every constituent ~~must~~ ☒ should ☒ undergo the procedure for assessing conformity and suitability for the use indicated in the TSIs, and have the corresponding certificate.
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↓ 2008/57/EC recital 16 (adapted)

- (13) When developing new TSIs the aim should always be to ensure compatibility with the existing ~~authorised~~ system. This will help to promote the competitiveness of rail transport and prevent unnecessary additional costs through the requirement of upgrading or renewal of existing ~~authorised~~ subsystems to ensure backward compatibility. In those exceptional cases where it will not be possible to ensure compatibility, TSIs may establish the framework necessary to decide whether the existing subsystem ~~may need to be re-authorised~~ ☒ needs a new decision or authorisation for placing in service ☒ , and the corresponding deadlines.
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↓ 2008/57/EC recital 17 (adapted)

- (14) 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 ☒ should ☒ ~~must~~ be open to consultation by all Member States and by certain ~~Community~~ economic players ☒ within the Union ☒. The ☒ national vehicle ☒ registers should be consistent as regards the data format. They should therefore be covered by common operational and technical specifications.

↓ new

- (15) If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in a TSI, such aspects which need still to be addressed are identified in an annex to the TSI as open points. For these open points, pending the completion of the TSI, national rules apply.
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↓ 2008/57/EC recital 18 (adapted)

- (16) 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 the notified bodies referred to in Article ~~17~~ ~~20~~ of Directives ~~2008/57/EC~~ ~~96/48/EC~~ and ~~2001/16/EC~~.
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↓ new

- (17) Directive 2008/57/EC applies to the entire rail system within the Union and the scope of the TSIs is being extended to cover also the vehicles and networks not included in the trans-European rail system. Therefore, Annex I should be simplified by removing specific references to the trans-European rail system.
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↓ 2008/57/EC recital 19

~~The distinction between a high-speed rail system and a conventional rail system does not warrant two separate directives. The procedures for developing TSIs 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 both systems. It is therefore appropriate to combine Directives 96/48/EC and 2001/16/EC.~~

↓ new

- (18) The functional and technical specifications to be met by the subsystems and their interfaces may vary according to the use of subsystems, for example according to the categories of lines and vehicles.
- (19) In order to ensure the progressive implementation of rail interoperability within the whole Union and gradually reduce the diversity of legacy systems, the TSIs should specify the provisions to be applied in the event of renewal or upgrading of existing subsystems and may specify deadlines for achieving the target system.
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↓ 2008/57/EC recital 20

~~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 enters~~

~~into force, its scope will cover conventional and high-speed European networks as defined 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 network¹¹, and the vehicles likely to travel on those networks. The scope will be progressively extended to the whole network and all vehicles, provided that an impact assessment shows the economic benefit of so doing.~~

↓ 2008/57/EC recital 21

- (20) In view of the gradual approach to eliminating obstacles to the interoperability of the rail system and of the time consequently required for the adoption of TSIs, steps should be taken to avoid a situation where Member States adopt new national rules or undertake projects that increase the diversity of the present system.
-

↓ new

- (21) In order to eliminate the obstacles to interoperability, and as a consequence of extending the scope of the TSIs to the whole Union's rail system, the amount of national rules should progressively be reduced. National rules should be differentiated between rules strictly related to local requirements and rules needed to cover open points in TSIs. The second type of rules should progressively be removed as a result of closure of open points in the TSIs.
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↓ 2008/57/EC recital 22

- (22) The adoption of a gradual approach satisfies the special needs of the objective of the interoperability of the rail system, which is characterised by old national infrastructure and vehicles 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.
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↓ 2008/57/EC recital 23

~~In its Legislative Resolutions of 10 March 1999 on the railway package, the European Parliament asked that the progressive opening up of the rail sector go hand in hand with the fastest and most effective technical harmonisation measures possible.~~

↓ 2008/57/EC recital 24

~~The Council, at its 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 and training and qualifications of the staff concerned.~~

¹¹ ~~OJ L 228, 9.9.1996, p. 1. Directive as last amended by Council Regulation (EC) No 1791/2006 (OJ L 363, 20.12.2006, p. 1).~~

↓ 2008/57/EC recital 26

~~Pursuant to Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways¹², 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.~~

↓ 2008/57/EC recital 26 (adapted)

- (23) In view of the extent and complexity of the rail system, it has proved necessary, for practical reasons, to break it down into the following subsystems: infrastructure, ☒ trackside ☒ control-command and signalling, ☒ on-board control-command and signalling, ☒ energy, rolling stock, operation and traffic management, maintenance and telematics applications for passenger and freight services. 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. The same system is broken down into fixed and mobile elements comprising, on the one hand, the network, composed of the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the system and, on the other hand, all vehicles travelling on this network. Therefore, for the purposes of this Directive, a vehicle is composed of one subsystem (rolling stock) and where applicable ~~one or more parts of other subsystems (mainly the on-board part of the control-command and signalling subsystem and the onboard part of the energy subsystem).~~
-

↓ new

- (24) The United Nations Convention on the Rights of Persons with Disabilities to which the Union is a party establishes accessibility as one of its general principles and requires States Parties to take appropriate measures to ensure to persons with disabilities access on an equal basis with others, including by developing, promulgating and monitoring the implementation of minimum standards and guidelines for accessibility. Accessibility is therefore an important requirement for the interoperability of the rail system.
-

↓ 2008/57/EC recital 27 (adapted)

- (25) Implementation of the provisions on the interoperability of the 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~~ ☒ should ☒ endeavour to retain the objective of interoperability.

¹² ~~OJ L 237, 24.8.1991, p. 25. Directive as last amended by Directive 2007/58/EC.~~

↓ 2008/57/EC recital 28

- (26) TSIs 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.
-

↓ 2008/57/EC recital 29
⇒ new

- ~~(27) Each Member State concerned should be allowed not to apply certain TSIs in ⇨ a limited number of duly substantiated situations. These situations and the procedures to be followed in case of non-application of the TSI should be clearly defined ⇨ 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.~~
-

↓ 2008/57/EC recital 30

- (28) The drawing up of TSIs and their application to the rail system should not impede technological innovation, which should be directed towards improving economic performance.
-

↓ 2008/57/EC recital 31

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

↓ 2008/57/EC recital 32 (adapted)

- (29) To comply with the appropriate provisions on procurement procedures in the rail sector and in particular Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services¹³, 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 ☒ set of rules ☒ ~~body of European specifications~~ in order to serve as references for these technical specifications.
-

↓ 2008/57/EC recital 33 (adapted)

- (30) 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~~ ☒ the Union ☒ policy would be in the ~~Community's~~ ☒ Union's ☒
-

¹³ Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ L 134, 30.4.2004, p. 1). Directive as last amended by Commission Regulation (EC) No 213/2008 (OJ L 74, 15.3.2008, p. 1).

interest. The European standardisation ~~☒~~ organisations ~~☒~~ bodies ~~☒~~ should ~~☒~~ ~~must~~ therefore continue their cooperation with the international standardisation bodies.

↓ 2008/57/EC recital 34 (adapted)

- (31) 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~~ ~~☒~~ Union ~~☒~~ level and which the rail system must satisfy.
-

↓ 2008/57/EC recital 35

- (32) 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 ~~Council Decision 93/465/EEC¹⁴~~ Commission Decision 2010/713/EU of 9 November 2010 on modules for the procedures for assessment of conformity, suitability for use and EC verification to be used in the technical specifications for interoperability adopted under Directive 2008/57/EC of the European Parliament and of the Council¹⁵. 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.
-

↓ 2008/57/EC recital 36 (adapted)

- (33) 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~~ ~~☒~~ Union ~~☒~~ 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 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.
-

↓ 2008/57/EC recital 37 (adapted)

- (34) Manufacturers are nonetheless obliged to affix the CE marking to certain components in order to certify their compliance with other ~~Community~~ ~~☒~~ Union ~~☒~~ provisions relating to them.
-

↓ 2008/57/EC recital 38

- (35) When a TSI enters into force, a number of interoperability constituents are already on the market. A transitional period should be provided for so that these constituents can be integrated into a subsystem, even if they do not strictly conform to that TSI.

¹⁴ ~~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).~~

¹⁵ OJ L 319, 4.12.2010, pp. 1–52.

↓ 2008/57/EC recital 39 (adapted)

- (36) The subsystems constituting the rail system should be subjected to a verification procedure. This verification ~~must~~ ☒ should ☒ enable the ~~authorities~~ ☒ entities ☒ responsible for ~~authorising~~ their placing in 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~~ ☒ should ☒ also enable manufacturers to be able to count upon equality of treatment whatever the ~~country~~ ☒ Member State ☒ . ~~It is therefore necessary to lay down one or more modules defining the principles and conditions applying to 'EC' verification of subsystems.~~
-

↓ 2008/57/EC recital 40

⇒ new

- (37) 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 Directive [.../...] ~~2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community railways¹⁶ [Railway Safety Directive]¹⁷~~, responsibility for meeting these requirements lies, for their respective subsystems, with the infrastructure manager or the railway undertaking. ~~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.~~
-

↓ 2008/57/EC recital 41 (adapted)

⇒ new

- (38) ~~As far as vehicles are concerned,~~ The procedure for placing in service ⇒ of vehicles and fixed installations ⇐ should be clarified taking into account the ⇒ responsibilities of infrastructure managers and railway undertakings ⇐ ~~definition of vehicle which is composed of one or more subsystems. In addition, as Directives 96/48/EC and 2001/16/EC deal with new and upgraded subsystems and Directive 2004/49/EC deals with in-use vehicles, all provisions regarding authorisations for placing in service of vehicles should be integrated in this Directive. Furthermore, a procedure for authorisation of vehicle types should be added. In order to facilitate this procedure and help identify vehicle types, a European register of authorised types of vehicles should be set up and maintained by the European Railway Agency (hereinafter referred to as the Agency).~~
- (39) ☒ In order ☒ ~~with a view~~ to ☒ facilitate ☒ ~~facilitating~~ the placing in service of vehicles and reduce administrative burdens, ⇒ the notion of a vehicle authorisation for placing on the market valid throughout the Union should be introduced as a precondition to enable railway undertakings to place in service a vehicle. In addition, this notion is more in line with Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC¹⁸ ⇐ .

¹⁶ [OJ L 164, 30.4.2004, p. 44. Corrected by OJ L 220, 21.6.2004, p. 16.](#)

¹⁷ [OJ L...](#)

¹⁸ [OJ L 218, 13.8.2008, p. 82.](#)

↓ new

- (40) To ensure traceability of the vehicles and their history, the references of the vehicle authorisations for placing on the market should be recorded together with the other vehicle data.
- (41) The TSIs should specify the procedures for checking the compatibility between vehicles and network after the delivery of the vehicle authorisation for placing on the market and before the decision to place into service.
-

↓ 2008/57/EC recital 42

~~Experience has shown that the implementation of such a procedure at national level is often complicated and subject to different national requirements that lack transparency, or even duplicate each other. Consequently, this procedure poses a major obstacle to the creation of new railway undertakings, particularly in the freight sector. Steps should therefore be taken to clarify and simplify the procedures for authorising vehicles. Firstly, the general principle that one authorisation is sufficient for the whole Community rail network should be established. Secondly, the procedure for authorising vehicles which are TSI conform should be simpler and quicker than in the case of non-TSI conform. Thirdly, the principle of mutual recognition should be applied as far as possible: when a vehicle has already been placed in service in one Member States, other Member States should not invoke national rules to impose unnecessary requirements and redundant verifications, unless these are strictly necessary for verifying the technical compatibility of the vehicle with the relevant network. To this end national rules should be classified and compared according to a check-list in order to determine to which extent national rules can be declared as equivalent in terms of requirements, performances and safety. Fourthly, the principle of legal certainty as regards the outcome of the procedure should be pursued. To this end, in the absence of a decision of a national safety authority within the prescribed time limits an applicant should be authorised to place in service a vehicle. Such an authorisation would only be possible if the vehicle has already been authorised in another Member State. In addition, it would only be possible for a railway undertaking or an infrastructure manager duly certified in accordance with Directive 2004/49/EC to use such a vehicle under their full responsibility.~~

↓ new

- (42) To help railway undertakings decide on the placing into service of a vehicle and to avoid redundant verifications and unnecessary administrative burden, national rules should also be classified to establish the equivalence between national rules of different Member States covering the same topics.
-

↓ 2008/57/EC recital 43

~~The authorisation procedures for TSI conform and non-TSI conform vehicles are different. There may be cases where the choice of the procedure is not straightforward. Vehicles which come within the scope of TSI conform vehicles should be those vehicles where all the relevant TSIs have entered into force, including at least the TSI on rolling stock. This would mean that a significant part of the essential requirements has been laid down. For example, until such time that the conventional TSI on locomotives has entered into force, locomotives~~

~~fall within scope of non-TSI conform vehicles, even though they might comply with other relevant TSIs in force at the time of their placing in service.~~

↓ 2008/57/EC recital 44

~~If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in a TSI, they are identified in an annex to the TSI as open points. When a TSI conform vehicle has already been authorised in one Member State, additional authorisations should only consider those open points that relate to technical compatibility between the vehicle and the network.~~

↓ 2008/57/EC recital 45

~~The list of parameters to be checked in conjunction with the placing in service of non-TSI conform vehicles is a key element for the achievement of interoperability of railway systems, in particular with regard to existing vehicles. This list takes into account experience across a limited number of networks. Therefore it is necessary that the Agency review the parameters in Annex VII and make the recommendations it considers appropriate to the Commission.~~

↓ 2008/57/EC recital 46 (adapted)

(43) ~~The 'EC' verification procedure should be based on TSIs. These TSIs are subject to the provisions of Article 18 34 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~~ should , in particular in the absence of any European specification, coordinate their decisions as closely as possible.~~

↓ 2008/57/EC recital 47

~~The 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.~~

↓ new

(44) Transparent accreditation as provided for in Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93¹⁹, ensuring the necessary level of confidence in conformity certificates, should be considered by the national public authorities throughout the Union the preferred means of demonstrating the technical competence of notified and, *mutatis mutandis*, the bodies designated to check the compliance with national rules. However, national authorities may consider that they possess the appropriate means of carrying out this evaluation themselves. In such cases, in order to ensure the appropriate level of credibility of evaluations carried out by other national authorities, they should provide the Commission and the other Member States with the

¹⁹ OJ L 218, 13.8.2008, p. 30.

necessary documentary evidence demonstrating the compliance of the conformity assessment bodies evaluated with the relevant regulatory requirements.

- (45) This Directive should be limited to establishing the interoperability requirements for interoperability constituents and subsystems. In order to facilitate compliance with those requirements it is necessary to provide for presumption of conformity for interoperability constituents and subsystems which are in conformity with harmonised standards that are adopted in accordance with Regulation (EU) No 1025/2012 for the purpose of expressing detailed technical specifications of those requirements.

↓ 2008/57/EC recital 48 (adapted)
⇒ new

- (46) ~~⊗ The ⊗ TSIs will ⊗ should ⊗ be revised at regular intervals. When errors ⊗ deficiencies ⊗ are discovered ⇒ in the TSIs, the European Union Agency for Railways (hereinafter referred to as the Agency) should be asked to issue an opinion which, under certain conditions, might be published and used by all stakeholders (including industry and notified bodies) as an acceptable means of compliance pending the revision of the TSIs concerned. ⇐ an ad hoc rapid procedure should be set up in such a way that a provisional corrigendum is first agreed in the context of a committee and then published by the Agency. This will allow an earlier use of this corrigendum by all stakeholders, including industry, notified bodies and authorities, pending a formal revision of the TSI by the Commission. In order to avoid confusion with official corrigenda of the Commission, the term technical opinion will be used. This procedure is in line with the mandate adopted by the Commission in Decision of 13 July 2007 concerning a framework mandate to the European Railway Agency for the performance of certain activities under Directives 96/48/EC and 2001/16/EC. However, if the TSI needs to be amended because of an important or critical error, a revision procedure should be applied.~~

↓ 2008/57/EC recital 49

~~The definition of the keeper should be as close as possible to the definition used in the 1999 Convention concerning International Carriage by Rail (COTIF). Many entities can be identified as a keeper of a vehicle, such as the owner, a company carrying on a business with a fleet of wagons, a company leasing vehicles to a railway undertaking, a railway undertaking or an infrastructure manager using vehicles for maintaining its infrastructure. These entities have control over the vehicle with a view to its use as a means of transport by the railway undertakings and the infrastructure managers. In order to avoid any doubt, the keeper should be clearly identified in the national vehicle registers.~~

↓ 2008/57/EC recital 50

~~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 Commission²⁰.~~

²⁰ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

↓ 2008/57/EC recital 51

~~In particular, the Commission should be empowered to adopt and update the TSIs. Since these measures are of general scope and are designed to amend non-essential elements of this Directive, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.~~

↓ 2008/57/EC recital 52

~~When, on imperative grounds of urgency, the normal time limits for the regulatory procedure with scrutiny cannot be complied with, the Commission should be able to apply the urgency procedure provided for in Article 5a(6) of Decision 1999/468/EC for the adoption of measures designed to amend non-essential elements of this Directive by supplementing it with TSIs or amendments thereto.~~

↓ 2008/57/EC recital 53 (adapted)

(47) Since the objective of this Directive, namely interoperability within the rail system ~~in~~ on a Community Union -wide scale, cannot be sufficiently achieved by the Member States acting alone , since no individual Member State is in a position to take the action needed in order to achieve such interoperability and can therefore be better achieved at ~~Community~~ Union level, the ~~Community~~ Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union . In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.

↓ 2008/57/EC recital 54

~~In accordance with point 34 of the Interinstitutional Agreement on better law-making²¹, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.~~

↓ new

(48) In order to amend non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adaptation to technical progress of Annex II regarding the breakdown of the rail system into subsystems and to the description of these subsystems, the content of the TSIs and the amendments to TSIs, including those amendments needed to remedy TSIs deficiencies. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and

²¹ OJ C 321, 31.12.2003, p. 1.

drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.

- (49) In order to address the deficiencies discovered in TSIs, the Commission should adopt delegated acts amending those TSIs under the urgency procedure.
- (50) In order to ensure the implementation of Article 6(1) of this Directive concerning the mandate to the Agency to draft TSIs and their amendments and to make the relevant recommendations to the Commission, implementing powers should be conferred on the Commission.
- (51) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission relating to: the content of the file which shall accompany the request of non-application of one or more TSIs or parts of them, the details, the format and the transmission modalities of that file; the scope and the content of the EC declaration of conformity and suitability for use of interoperability constituents, its format and the details of the information included in it; the classification of the notified national rules in different groups with the aim of facilitating the compatibility checks between fixed and mobile equipment; the verification procedures for subsystems, including the general principles, the content, procedure and documents related to the 'EC' verification procedure, and to the verification procedure in the case of national rules; the templates for the 'EC' declaration of verification and for the declaration of verification in the case of national rules and templates for documents of the technical file that has to accompany the declaration of verification; the common specifications relating to content, data format, functional and technical architecture, operating mode and rules for data input and consultation for the register of infrastructure. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers²².
- (52) In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.

↓ 2008/57/EC recital 55 (adapted)

- (53) 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.

²² OJ L 55, 28.2.2011, p.13.

↓ new

(54) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex IV, part B.

↓ 2008/57/EC recital 56

~~Article 14 of Directive 2004/49/EC and Directives 96/48/EC and 2001/16/EC should therefore be repealed.~~

↓ 2008/57/EC (adapted)

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

~~Purpose~~ ☒ ~~Subject matter~~ ☒ and scope

1. This Directive ~~sets out to establish~~ ☒ establishes ☒ the conditions to be met to achieve interoperability within the ~~Community~~ ☒ Union's ☒ rail system in a manner compatible with the provisions of Directive [~~.../...on the safety of the rail system within the Union~~] 2004/49/EC. These conditions concern the design, construction, placing in service, upgrading, renewal, operation and maintenance of the parts of this system as well as the professional qualifications and health and safety conditions of the staff who contribute to its operation and maintenance.

☒ 2. This Directive lays down the provisions relating to, for each subsystem, the interoperability constituents, the interfaces and procedures as well as the conditions of overall compatibility of the rail system required to achieve its interoperability. ☒

↓ 2008/57/EC
⇒ new

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

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

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

~~(c) contribute to the interoperability of the rail system within the Community.~~

3. ~~Member States may exclude from the measures they adopt in implementation~~ ⇨ The following systems are excluded from the scope ⇨ of this Directive:

↓ 2008/57/EC (adapted)

(a) metros, trams and ~~other~~ light rail systems;

(b) networks that are functionally separate from the rest of the railway system and intended only for the operation of local, urban or suburban passenger services, as well as railway undertakings operating solely on these networks.

⊗ 4. Member States may exclude from the scope of the measures implementing this Directive: ⊗

↓ 2008/57/EC (adapted)

(~~a~~) privately owned railway infrastructure and vehicles exclusively used on such infrastructure ⊗ where this exists ⊗ ~~that exist~~ solely for use by the owner for its own freight operations;

(~~b~~) infrastructure and vehicles reserved for a strictly local, historical or touristic use.

~~4. The scope of the TSIs shall be progressively extended in accordance with Article 8 to the whole rail system, including track access to terminals and main port facilities serving or potentially serving more than one user, without prejudice to the derogations to the application of TSIs as listed in Article 9.~~

Article 2

Definitions

For the purposes of this Directive:

↓ 2008/57/EC (adapted)
⇨ new

(1) '~~trans~~ ⇨ Union ⇨ rail system' means the ~~trans-European conventional and high-speed rail systems~~ ⊗ elements listed ⊗ ~~as set out in Annex I, points 1 and 2, respectively;~~

↓ 2008/57/EC

(2) 'interoperability' means the ability of a rail system to allow the safe and uninterrupted movement of trains which accomplish the required levels of performance for these lines. ~~This ability depends on all the regulatory, technical and operational conditions which must be met in order to satisfy the essential requirements;~~

↓ 2008/57/EC (adapted)
⇒ new

- (3) ‘vehicle’ means a railway vehicle ☒ suitable for circulation ☒ ~~that runs~~ on its own wheels on railway lines, with or without traction, ⇒ in a fixed or variable composition ⇐ . A vehicle is composed of one or more structural and functional subsystems ~~or parts of such subsystems~~;
-

↓ 2008/57/EC

- (4) ‘network’ means the lines, stations, terminals, and all kinds of fixed equipment needed to ensure safe and continuous operation of the rail system;
-

↓ 2008/57/EC (adapted)

- (5) ‘subsystems’ means the ☒ structural or functional parts ☒ ~~result of the division~~ of the rail system, as ~~shown~~ ☒ set out ☒ in Annex II; ~~These subsystems, for which essential requirements must be laid down, may be structural or functional;~~
- (6) ‘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 rail system depends directly or indirectly, ☒ including ☒ ~~The concept of a ‘constituent’ covers both tangible objects and intangible objects such as software;~~
-

↓ 2008/57/EC

- (7) ‘essential requirements’ means all the conditions set out in Annex III which must be met by the rail system, the subsystems, and the interoperability constituents, including interfaces;
-

↓ 2008/57/EC (adapted)
⇒ new

- (8) ‘European specification’ means a common technical specification, a European technical approval ☒ as defined in Annex XXI to Directive 2004/17/EC ☒ or a ~~national~~ ⇒ European ⇐ standard ⇒ as defined in Article 2(1)(b) of Regulation (EU) No 1025/2012; ⇐ ~~transposing a European standard, as defined in Annex XXI to Directive 2004/17/EC;~~
-

↓ 2008/57/EC

- (9) ‘technical specification for interoperability’ (TSI) means a specification adopted in accordance with this Directive by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and ensure the interoperability of the rail system;

~~‘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;~~

↓ 2008/57/EC (adapted)
⇒ new

- (10) ‘basic parameters’ means any regulatory, technical or operational condition which is critical to interoperability and is specified in the relevant TSIs;
- (11) ‘specific case’ means any part of the 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~~ ☒ Union ☒, the loading gauge, the track gauge or space between the tracks and vehicles strictly intended for local, regional or historical use, as well as vehicles originating from or destined for third countries;
- (12) ‘upgrading’ means any ~~major~~ modification work on a subsystem or part ~~subsystem~~ ☒ of it ☒ which ⇒ results in a change in the technical file accompanying the ‘EC’ declaration of verification, if this technical file exists, and which ⇐ improves the overall performance of the subsystem;
- (13) ‘renewal’ means any ~~major~~ substitution work on a subsystem or part ~~subsystem~~ ☒ of it ☒ which does not change the overall performance of the subsystem;
- (14) ‘existing rail system’ means the structure composed of lines and fixed installations of the existing rail system ~~plus~~ ☒ as well as ☒ the vehicles of all categories and origin travelling on that infrastructure;
-

↓ 2008/57/EC

- (15) ‘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;
-

↓ 2008/57/EC (adapted)

- (16) ‘placing in service’ means all the operations by which a subsystem or a vehicle is put into its ☒ operational service ☒ ~~design operating state~~;
- (17) ‘contracting entity’ means ~~any~~ ☒ public or private ☒ entity, ~~whether public or private~~, which orders the design and/or construction or the renewal or upgrading of a subsystem. This entity may be a railway undertaking, an infrastructure manager or a keeper, or ☒ a ☒ ~~the~~ concession holder responsible for carrying out a project;

↓ 2008/57/EC
⇒ new

- (18) ‘keeper’ means the person or entity that, being the owner of a vehicle or having the right to use it, exploits the vehicle as a means of transport and is registered as such in the national vehicle register referred to in Article ~~4333~~;
- (19) ‘project at an advanced stage of development’ means any project whose planning/construction stage has reached a point where ~~technical specifications exist and a change in the technical specifications would~~ ⇒ may compromise the viability of the project as planned; ~~↔ be unacceptable to the Member State concerned. Such an impediment may be legal, contractual, economic, financial, social or environmental in nature and must be duly substantiated;~~

↓ 2008/57/EC (adapted)
⇒ new

- (20) ‘harmonised standard’ means ~~any~~ ☒ a ☒ European standard ⇒ as defined in Article 2(1)(c) of Regulation (EU) No 1025/2012 ~~↔ adopted by one of the European standardisation bodies listed in Annex I to Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services²³ in connection with a mandate by the Commission drawn up in accordance with the procedure referred to in Article 6(3) of that Directive, which, by itself or together with other standards, provides a solution as regards compliance with a legal provision;~~
- (21) ‘national safety authority’ means a safety authority as defined in Article 3(~~e~~) of Directive ☒ .../... [on the safety of the rail system within the Union] ☒ ~~2004/49/EC~~;
- (22) ‘type’ means a vehicle type defining the basic design characteristics of the vehicle as covered by a ☒ type or design examination certificate described in the relevant verification module ☒ ~~single type examination certificate described in module B of Decision 93/465/EEC~~;

↓ 2008/57/EC

- (23) ‘series’ means a number of identical vehicles of a design type;
- ~~‘Agency’ means the European Railway Agency, as established by Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European railway agency (Agency Regulation)²⁴;~~

²³ ~~OJ L 204, 21.7.1998, p. 37. Directive as last amended by Council Directive 2006/96/EC (OJ L 362, 20.12.2006, p. 81).~~

²⁴ ~~OJ L 164, 30.4.2004, p. 1. Corrected by OJ L 220, 21.6.2004, p. 3.~~

↓ 2008/57/EC (adapted)

- (24) ‘entity in charge of maintenance’ means an entity in charge of maintenance as defined in Article 3 of Directive .../.... [Railway Safety Directive] ~~of a vehicle, and registered as such in the national vehicle register.~~
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↓ new

- (25) ‘light rail’ means an urban and/or sub-urban rail transport system with lower capacity and lower speeds than heavy rail and metro systems, but higher capacity and higher speeds than tram systems. Light rail systems may have their own right-of-way or share it with road traffic and usually do not exchange vehicles with long-distance passenger or freight traffic;
- (26) ‘national rules’ means all binding rules containing railway safety or technical requirements imposed at Member State level and applicable to railway undertakings, irrespective of the body issuing them;
- (27) ‘design operating state’ means the normal operating mode and the foreseeable degraded conditions (including wear) within the range and the conditions of use specified in the technical and maintenance files;
- (28) ‘acceptable means of compliance’ means non-binding opinions issued by the Agency to define ways of establishing compliance with the essential requirements;
- (29) ‘placing on the market’ means the first making available on the Union’s market of an interoperability constituent, subsystem or vehicle ready to function in its design operating state;
- (30) ‘manufacturer’ means any natural or legal person who manufactures an interoperability constituent or subsystem or has it designed or manufactured, and markets it under his name or trademark;
- (31) ‘authorised representative’ means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on his behalf in relation to specified tasks;
- (32) ‘technical specification’ means a document that prescribes technical requirements to be fulfilled by a product, process or service;
- (33) ‘accreditation’ has the meaning assigned to it by Regulation (EC) No 765/2008;
- (34) ‘national accreditation body’ has the meaning assigned to it by Regulation (EC) No 765/2008;
- (35) ‘conformity assessment’ means the process demonstrating whether specified requirements relating to a product, process, service, system, person or body have been fulfilled;
- (36) ‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

- (37) ‘disabled person and person with reduced mobility’ shall include any person who has a permanent or temporary physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder their full and effective use of transport on an equal basis with other passengers or whose mobility when using transport is reduced due to age.
- (38) ‘infrastructure manager’ means infrastructure manager as defined in Article 3 of Directive .../... [establishing a single European railway area];
- (39) ‘railway undertaking’ means railway undertaking as defined in Article 3 of Directive .../... [establishing a single European railway area], and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction; this also includes undertakings which provide traction only.
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↓ 2008/57/EC

~~Article 3~~

~~Overall compatibility~~

~~1. This Directive concerns the provisions relating to, for each subsystem, the interoperability constituents, the interfaces and procedures as well as the conditions of overall compatibility of the rail system required to achieve its interoperability.~~

~~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 34~~

~~Essential requirements~~

1. The rail system, subsystems and interoperability constituents including interfaces shall meet the relevant essential requirements.

↓ 2008/57/EC (adapted)

2. The ~~further~~ technical specifications referred to in Article 34 of Directive 2004/17/EC which are necessary to complete European specifications or other standards in use within the ~~Community~~ ☒ Union shall ☒ ~~must~~ not conflict with the essential requirements.

↓ 2008/57/EC (adapted)
⇒ new

CHAPTER II

TECHNICAL SPECIFICATIONS FOR INTEROPERABILITY

Article ~~45~~

Content of ~~TSIs~~ Technical Specifications for Interoperability

1. Each of the subsystems defined in Annex II 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 revise a TSI and the choice of its technical and geographical scope requires a mandate in accordance with Article 6(1).~~

↓ new

2. The Commission shall be empowered to adopt delegated acts in accordance with Article 46 concerning adaptation to technical progress of Annex II regarding the breakdown of the rail system into subsystems and to the description of these subsystems.

↓ 2008/57/EC

~~32.~~ 32. Subsystems shall comply with the TSIs in force at the time of their placing in service, upgrading or renewal, in accordance with this Directive; this compliance shall be permanently maintained while each subsystem is in use.

↓ 2008/57/EC (adapted)

~~43.~~ 43. ~~To the extent necessary to achieve the objective referred to in Article 1, e~~Each TSI shall:

↓ 2008/57/EC

(a) indicate its intended scope (part of network or vehicles referred to in Annex I; subsystem or part of subsystem referred to in Annex II);

↓ 2008/57/EC (adapted)

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

(c) establish the functional and technical specifications to be met by the subsystem and its interfaces ~~vis-à-vis~~ in relation to 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 vehicles provided for in Annex I;~~

↓ 2008/57/EC

(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 rail system;

(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 2010/713/EU²⁵ ~~93/465/EEC~~;

↓ 2008/57/EC (adapted)
⇒ new

(f) indicate the strategy for ~~implementing~~ the application of 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 ⇒ including setting deadlines for completion of those stages where necessary ⇐ ;

(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~~ application of the TSIs.

↓ new

(h) indicate the provisions applicable to the existing subsystems and types of vehicles, in particular in the event of upgrading and renewal, with and without a new authorisation or decision for placing in service;

(i) indicate the parameters to be checked by the railway undertaking and the procedures to be applied to check those parameters after the delivery of the vehicle authorisation for placing on the market and before the decision for placing in service to ensure the compatibility between vehicles and routes on which they are intended to be operated;

↓ 2008/57/EC (adapted)
⇒ new

54. 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 with them shall facilitate ~~therewith will help~~ gradually ⇒ within that time-scale ⇐ to achieve the interoperability of the rail system.

²⁵ OJ L 319, 4.12.2010, p. 1.

~~65.~~ 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 TSI, with regard to both network and vehicles, ⇨ and in particular for ⇨ ~~special attention must be given to~~ the loading gauge, the track gauge or space between the tracks and vehicles originating from or destined for third countries. For each specific case, the TSIs shall stipulate the implementing rules of the elements of the TSIs ~~indicated~~ ⇨ provided for ⇨ in paragraph ~~43~~(c) to (g).

↓ 2008/57/EC

~~76.~~ 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 as open points. ~~Article 17(3) shall apply to these aspects.~~

↓ 2008/57/EC (adapted)

~~87.~~ TSIs shall not ⇨ prevent ⇨ ~~be an impediment to decisions by~~ the Member States ~~concerning~~ ⇨ from deciding on ⇨ the use of infrastructures for the movement of vehicles not covered by the TSIs.

~~98.~~ TSIs may make an explicit, clearly identified reference to European or international standards or specifications or technical documents published by the Agency where this is strictly necessary in order to achieve the objective of this Directive. In such case, these standards or specifications (or their relevant parts) or technical documents 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 standards or specifications or technical documents 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.

Article ~~56~~

⇨ ~~Drafting, adoption and review~~ ⇨ ~~Adoption, review and publication~~ of TSIs

↓ 2008/57/EC

~~1. Draft TSIs and subsequent draft amendments to TSIs shall be drafted by the Agency under a mandate from the Commission in accordance with the regulatory procedure referred to in Article 29(3) of this Directive. They shall be drafted in accordance with Articles 3 and 12 of Regulation (EC) No 881/2004 and in cooperation with the working parties mentioned in those Articles.~~

~~Measures designed to amend non-essential elements of this Directive by supplementing it with TSIs or amendments thereto shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(4).~~

~~On imperative grounds of urgency, the Commission may use the urgency procedure referred to in Article 29(5).~~

~~2. The Agency shall be responsible for preparing the review and updating of TSIs and making any recommendations to the Commission in order to take account of developments in technology or social requirements. The Commission shall inform the committee referred to in Article 29 of such recommendations.~~

↓ new

1. The Commission shall issue a mandate to the Agency to draft TSIs and their amendments and to make the relevant recommendations to the Commission.

↓ 2008/57/EC (adapted)

~~32.~~ Each draft TSI shall be drawn up in ~~two~~ the following stages.

~~(a) Firstly,~~ 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.

~~(b) Secondly,~~ the Agency shall 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.

↓ 2008/57/EC
⇒ new

~~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.~~

3. The Agency, in order to take account of developments in technology or social requirements, shall draft the TSIs and their amendments under the mandate referred to in paragraph 1, in accordance with Articles 4 and 15 of Regulation (EU) No .../... [Agency Regulation] and by respecting the principles of openness, consensus and transparency as defined in Annex II to Regulation (EU) No 1025/2012.

~~45. The committee referred to in Article 29 shall be kept regularly informed of the preparatory work on the TSIs. During ⇒ the preparatory work on TSIs ⇐ this work the Commission may, at the request of the committee, formulate any terms of reference or useful recommendations concerning the design of the TSIs and the cost-benefit analysis. In particular, 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.~~

~~56. On the adoption of each TSI, the date of entry into force of that TSI shall be established in accordance with the regulatory procedure with scrutiny referred to in Article 29(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.~~

~~67.~~ 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. It shall enclose with the draft TSI a report on the results of this consultation.

↓ 2008/57/EC (adapted)
⇒ new

~~7.~~ ⇒ In accordance with Article 6 of Regulation (EU) No .../... [Agency Regulation], the Agency shall draw up and regularly update ~~the list of~~ ~~users' associations and bodies to be consulted shall be drawn up by the Commission, after consulting the committee in accordance with the advisory procedure referred to in Article 29(2), and~~ ~~users' associations and bodies to be consulted~~. This list may be re-examined and updated at the request of a Member State or upon the initiative of the Commission.

↓ 2008/57/EC (adapted)
⇒ new

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 ~~54~~(4)(g). ⇒ To this end, the Agency shall consult the social partners before submitting to the Commission recommendations on TSIs and their amendments. ~~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 29.~~ The social partners shall be consulted in the context of the Sectoral Dialogue Committee set up in accordance with Commission Decision 98/500/EC of 20 May 1998 on the establishment of Sectoral Dialogue Committees promoting the Dialogue between the social partners at European level²⁶. The social partners shall issue their opinion within three months.

9. When revision of a TSI leads to a change of requirements, the new TSI version shall ensure compatibility with subsystems placed in service in accordance with former TSI versions.

10. The Commission shall be empowered to adopt delegated acts in accordance with Article 46 concerning the TSIs and their amendments.

Where, in the case of deficiencies discovered in TSIs in accordance with Article 6, imperative grounds of urgency so require, the procedure provided for in Article 47 shall apply to delegated acts adopted pursuant to this Article.

~~In case a new authorisation, renewal or upgrading of these subsystems is needed for duly justified safety or interoperability reasons, corresponding deadlines shall be fixed either in the TSI or, as appropriate, by the Member States.~~

²⁶ OJ L 225, 12.8.1998, p. 27. ~~Decision as last amended by Regulation (EC) No 1792/2006 (OJ L 362, 20.12.2006, p. 1).~~

~~10. The TSIs shall be published by the Commission in the Official Journal of the European Union. Article 67~~

Deficiencies in TSIs

~~1. If, after its adoption, it appears that a TSI does not fully meet the essential requirements, the committee referred to in Article 29 may be consulted at the request of a Member State or upon the initiative of the Commission.~~

~~The Commission may request a technical opinion from the Agency. The Commission, with the involvement of the committee, shall analyse the technical opinion.~~

~~2. If the TSI needs to be amended because of a minor error and this does not justify an immediate revision, the Commission may recommend that the technical opinion is used pending the review of the TSI in accordance with Article 6(1). In that case, the Agency shall publish the technical opinion.~~

~~3. If the TSI needs to be amended because of an important or critical error, the revision procedure referred to in Article 6(1) shall be applied forthwith.~~

↓ new

1. If, after its adoption, it appears that a TSI has a deficiency, that TSI shall be amended in accordance with Article 5(3).

2. Pending the review of the TSI, the Commission may request an opinion from the Agency. The Commission shall analyse the Agency opinion and inform the Member States of its conclusions.

3. At the request of the Commission, the Agency opinions referred to in paragraph 2 shall constitute acceptable means of compliance to meet the essential requirements and may therefore be used for the assessment of projects.

↓ 2008/57/EC

~~Article 8~~

~~Extension of the scope of TSIs~~

~~1. The Commission shall adopt, in accordance with the regulatory procedure referred to in Article 29(3), one or more mandates aiming at the development of new TSIs and/or the review of TSIs already adopted with a view to covering lines and vehicles not yet covered.~~

~~2. The first such mandate shall indicate a first group of new TSIs and/or amendments to TSIs to be adopted by January 2012, without prejudice to Article 5(5) as regards the possibility of providing for specific cases and without prejudice to Article 9 allowing for derogations in particular circumstances. This first mandate shall be drawn up on the basis of a recommendation from the Agency with a view to determining new TSIs to be developed and/or existing TSIs to be amended in the light of the expected cost effectiveness of each proposed measure and on the basis of the principle of proportionality of measures to be taken at Community level. To this end, appropriate consideration shall be given to Annex I, point 4~~

~~and the necessary balance between, on the 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 concerned.~~

~~3. Until such time as the extension of the scope of the TSIs to cover the whole of the rail network takes effect:~~

~~— (a) authorisations for the placing in service~~

~~— of vehicles and on-board control command and signalling subsystems to be used at least partially on the part of the network that does not yet fall within the scope of the TSIs, in respect of that part of the network,~~

~~— of infrastructure, energy and trackside control command and signalling subsystems on the parts of the network that do not yet fall within the scope of the TSIs,~~

~~— shall be granted in accordance with the national rules referred to in Article 8 of Directive 2004/49/EC, or, where applicable, Article 17(3) of this Directive;~~

~~— (b) authorisations for the placing in service of vehicles to be used occasionally on the part of the network that does not yet fall within the scope of the TSIs, in respect of that part of the network, shall be granted in accordance with Articles 21 to 27 and the national rules referred to in Article 8 of Directive 2004/49/EC, or, where applicable, Article 17(3) of this Directive.~~

~~4. A Member State need not apply the new or revised TSIs adopted in accordance with paragraph 2 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 is published.~~

↓ 2008/57/EC (adapted)

Article 79

Derogations ☒ Non-application of the TSIs ☒

↓ new

1. Member States are allowed not to apply one or more TSIs or parts of them in the following cases:

(a) for a proposed new subsystem or part of it, for the renewal or upgrading of an existing subsystem or part of it, or for any element referred to in Article 1(1) at an advanced stage of development or the subject of a contract in the course of performance at the date of application of these TSIs;

(b) 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; in this case, the non-application of the TSIs shall be limited in time;

(c) for any proposed renewal, extension or upgrading of an existing subsystem or part of it, when the application of these TSIs would compromise the economic viability of the project.

2. In the case referred to in paragraph 1(a), each Member State shall communicate to the Commission, within one year of entry into force of each TSI, a list of projects that are taking place within its territory and which are at an advanced stage of development.

3. In all cases referred to in paragraph 1, the Member State concerned shall submit to the Commission the request for non-application of the TSI, also specifying the alternative provisions that the Member State intends to apply instead of the TSIs. The Commission shall by means of implementing acts establish the content of the file which shall accompany the request of non-application of one or more TSIs or parts of them, the details, the format and the transmission modalities of that file. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3). The Commission shall check that file, analyse the alternative provisions that the Member State intends to apply instead of the TSIs, decide whether to accept or not the request of non-application of the TSI and inform the Member State of this decision.

4. Pending the decision of the Commission, the Member State may apply the alternative provisions as referred to in paragraph 3 without delay.

5. The Commission shall give its decision within four months of the submission of the request supported by the complete file. In the absence of such a decision, the request shall be deemed to have been accepted.

↓ 2008/57/EC

~~1. In the absence of relevant specific cases, a Member State need not apply one or more TSIs in accordance with this Article in the following cases:~~

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

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

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

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

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

~~2. In the cases referred to in paragraph 1, the Member State concerned shall communicate to the Commission a file containing the information set out in Annex IX. The Commission shall analyse the measures proposed by the Member State and shall inform the committee referred to in Article 29.~~

~~3. In the case referred to in paragraph 1(a), within one year of entry into force of each TSI each Member State shall communicate to the Commission a list of projects that are taking place within its territory and are at an advanced stage of development.~~

~~4. In the cases referred to in paragraph 1(a), (c) and (e), the Commission shall check that the file is in conformity and shall inform the Member State of the results of its analysis. Where necessary, a recommendation shall be drawn up concerning the specifications to be applied. The Member State may apply the alternative provisions referred to in Annex IX without delay.~~

~~5. In the cases referred to in paragraph 1(b), (d) and (f), the Commission shall decide, in accordance with the regulatory procedure referred to in Article 29(3), whether to accept a request for a derogation. In the case referred to in paragraph 1(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 submission of the request supported by the complete file. In the absence of such a decision, the request shall be deemed to have been accepted. Pending the Commission's decision, in the case referred to in paragraph 1(f), a Member State may apply the alternative provisions referred to in Annex IX.~~

↓ 2008/57/EC

6. All Member States shall be informed of the results of the analyses and of the outcome of the procedure set out in paragraphs ~~3~~ 4 and ~~5~~.

↓ 2008/57/EC

CHAPTER III

INTEROPERABILITY CONSTITUENTS

Article ~~8~~10

Placing on the market of interoperability constituents

1. Member States shall take all necessary steps to ensure that interoperability constituents:
 - (a) are placed on the market only if they enable interoperability to be achieved within the rail system while at the same time meeting the essential requirements;
 - (b) are used in their area of use as intended and are suitably installed and maintained.

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

2. Member States may not, in their territory and on the basis of this Directive, prohibit, restrict or hinder the placing on the market of interoperability constituents for use in the 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.~~

↓ new

The Commission shall establish, by means of implementing acts, the scope and the content of the EC declaration of conformity and suitability for use of interoperability constituents, its format and the details of the information included in it. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3).

↓ 2008/57/EC (adapted)
⇒ new

Article ~~9~~

Conformity or suitability for use

1. Member States ⇒ and the Agency ⇐ shall consider ☒ as being interoperable and meeting the essential requirements ☒, those interoperability constituents ⇒ which are covered by ⇐ ~~which bear the 'EC' declaration of conformity or suitability for use. as complying with the essential requirements of this Directive.~~

↓ 2008/57/EC
⇒ new

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

3. Member States ⇒ and the Agency ⇐ 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.

4. Spare parts for subsystems that are already placed in service when the corresponding TSI enters into force may be installed in these subsystems without being subject to the procedure referred to in paragraph 2.

5. TSIs may provide for a period of transition for rail products identified by those TSIs as interoperability constituents which have already been placed on the market when the TSIs enter into force. Such constituents shall satisfy the requirements of Article ~~8~~(1).

Article 12

~~Non-compliance of European specifications with essential requirements~~

~~Where it appears to a Member State or the Commission that a TSIs do not comply with the essential requirements 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 29 shall be informed thereof and the Commission shall adopt the most appropriate measure, being:~~

~~(a) partial or total withdrawal of the specifications concerned from the publications containing them, or their amendment, 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 7.~~

↓ 2008/57/EC (adapted) ⇒ new

Article 1013

Procedure for 'EC' declaration of conformity or suitability for use

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~~ ☒ Union ☒ shall apply the provisions laid down by the relevant TSIs.

2. Where the corresponding TSI so requires, assessment of the conformity or suitability for use of an interoperability constituent shall be carried out by the notified ☒ conformity assessment ☒ body with which the manufacturer or his authorised representative established in the ~~Community~~ ☒ Union ☒ has lodged the application.

3. Where interoperability constituents are the subject of other ~~Community~~ ☒ Union ☒ directives covering other aspects, the 'EC' declaration of conformity or suitability for use shall, in such cases, 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 ☒ laid down in ☒ of paragraphs 1 and 3, those obligations shall be incumbent on any person who places interoperability constituents on the market. The same obligations shall apply to ☒ any person who ☒ ~~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. ⇒ In order to avoid that interoperability constituents non complying with essential requirements are being placed on the market, and without ⇐ ~~Without~~ prejudice to the provisions of Article ~~1114~~:

(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~~ ☒ Union ☒ 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;

↓ 2008/57/EC

(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 in question, or to ensure that it is withdrawn from the market in accordance with the procedures provided for in Article 114.

Article 114

Non-compliance of interoperability constituents with essential requirements

↓ 2008/57/EC (adapted)
⇒ new

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 ~~⇒~~ or recall it ~~⇐~~. The Member State shall forthwith inform the Commission ~~⇒~~ and the other Member States ~~⇐~~ of the measures taken and give the reasons for its decision, stating in particular whether failure to conform is due to:

↓ 2008/57/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.
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↓ 2008/57/EC (adapted)

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~~ ~~Union~~ ~~thereof~~. ~~Where the decision referred to in paragraph 1 is justified by the existence of a gap in European specifications, the procedure set out in Article 12 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~~ ~~any person who~~ ~~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.

CHAPTER IV

SUBSYSTEMS

Article 15

~~Procedure for placing in service~~

~~1. Without prejudice to Chapter V, each Member State shall authorise the placing in service of those structural subsystems constituting the 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 placed in 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 rail system. In particular, they shall check:~~

~~— the technical compatibility of these subsystems with the system into which they are being integrated,~~

~~— the safe integration of these subsystems in accordance with Articles 4(3) and 6(3) of Directive 2004/49/EC.~~

~~2. Each Member State shall check, before these subsystems are placed in service, that they comply, where applicable, with the relevant TSI provisions on operation and maintenance.~~

~~3. After these subsystems have been placed in service, the check shall be carried out:~~

~~— (a) for infrastructures, in the context of the granting and supervision of safety authorisations under Article 11 of Directive 2004/49/EC;~~

~~— (b) for vehicles, in the context of the granting and supervision of safety certificates under Article 10 of Directive 2004/49/EC.~~

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

Article 12~~16~~

Free movement of subsystems

1. Without prejudice to the provisions of ~~Chapter V Article 15(1)~~, Member States may not, in their territory and on grounds relating to this Directive, prohibit, restrict or hinder the construction, placing in service and operation of structural subsystems constituting the rail system which meet the essential requirements. In particular, they may not require checks which have already been carried out:

- (a) either as part of the procedure leading to the 'EC' declaration of verification, ~~the components of which are set out in Annex V,~~
- (b) or in other Member States, before or after the entry into force of this Directive, with a view to verifying compliance with identical requirements under identical operational conditions.

Article ~~13~~¹⁷

Conformity with TSIs and national rules

↓ 2008/57/EC (adapted)
⇒ new

1. Member States ⇒ and the Agency ⇐ shall consider as being interoperable and meeting the essential requirements ~~concerning them,~~ those structural subsystems constituting the rail system which are covered by the ~~EC~~ ☒ 'EC' ☒ declaration of verification.

↓ 2008/57/EC
⇒ new

2. Verification of the interoperability, in accordance with the essential requirements, of a structural subsystem constituting the rail system shall be established by reference to TSIs, ~~where they exist~~ ⇒ and national rules notified in accordance with paragraph 3 ⇐.

↓ 2008/57/EC (adapted)

3. Member States shall draw up, for each subsystem, a list of the ~~technical~~ ☒ national ☒ rules in use for implementing the essential requirements ~~and notify this list to the Commission when~~ ☒ in the following cases ☒:

↓ 2008/57/EC

– ~~no relevant TSI exists, or~~

↓ new

- (a) when the TSIs do not fully cover certain aspects corresponding to the essential requirements (open points);

↓ 2008/57/EC (adapted)
⇒ new

- (b) when a ~~derogation~~ non-application of one or more TSIs ⇒ or parts of them ⇐ has been notified under Article ~~87~~; ~~or~~
- (c) when specific case requires the application of technical rules not included in the relevant TSI~~s~~
-

↓ new

- (d) in case of national rules used to describe existing systems.
-

↓ 2008/57/EC (adapted)

4. ~~On that occasion,~~ Member States shall ~~also~~ designate the bodies responsible for establishing ~~to carry out~~, in the case of these technical regulations, the EC declaration of verification referred to in Article ~~18~~15, ~~the verification procedure~~.

↓ 2008/57/EC

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

↓ 2008/57/EC (adapted)
⇒ new

Article 14 National rules

1. ⇒ Member States shall notify to the Commission the list of national rules referred to in Article 13(3) ⇐ ~~This list shall be notified either:~~

- (a) each time the list of ~~technical rules that, pursuant to Article 16(3) of Directive 96/48/EC and Article 16(3) of Directive 2001/16/EC, was required to be notified by 30 April 2005~~ is changed, or
- (b) after a request for ~~the derogation~~ non-application of the TSI has been ~~notified~~ submitted in accordance with Article 7 , or
-

↓ 2008/57/EC
⇒ new

- (c) after publication of the TSI concerned ⇒ or its revision, in view of the removal of national rules made redundant by the closure of open points in the TSIs ⇐.
-

2. Member States shall notify the full text of existing national rules to the Agency and the Commission through the appropriate IT system in accordance with article 23 of Regulation (EU) No .../... [Agency Regulation].

3. Member States may lay down new national rules only in the following cases:

- (a) when a TSI does not fully meet the essential requirements;
- (b) as an urgent preventive measure, in particular following an accident.

4. If a Member State intends to introduce a new national rule, it shall notify the draft to the Agency and the Commission through the appropriate IT system in accordance with Article 23 of Regulation (EU) No .../... [Agency Regulation].

5. Member States shall ensure that national rules, including those covering the interfaces between vehicles and network, are made available free of charge and in a language that can be understood by all parties concerned.

6. Member States may decide not to notify rules and restrictions of a strictly local nature. In such cases, Member States shall mention these rules and restrictions in the infrastructure registers referred to in Article 45.

7. National rules notified under this Article are not subject to the notification procedure set out in Directive 98/34/EC.

8. The Commission shall establish, by means of implementing acts, the classification of the notified national rules in different groups with the aim of facilitating the compatibility checks between fixed and mobile equipment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3).

The Agency shall classify in accordance with the implementing acts referred to in the first subparagraph the national rules which are notified in accordance with this Article.

9. Draft national rules and national rules in force shall be examined by the Agency in accordance with the procedures laid down in Articles 21 and 22 of Regulation (EU) No .../... [Agency Regulation].

~~Member States shall make available the full text of the notified rules at the request of the Commission. In order to prevent further barriers from being created, and with a view to taking forward the classification of national rules in accordance with Article 27, the Commission shall monitor the introduction of new rules by the Member States. If the Commission considers that the new rule constitutes a means of arbitrary discrimination or a disguised restriction on rail transport operations between Member States, a decision, addressed to the Member State concerned, shall be adopted in accordance with the regulatory procedure referred to in Article 29(3).~~

~~Member States may choose not to notify rules and restrictions of a strictly local nature. In such cases, Member States shall mention such rules and restrictions in the infrastructure registers referred to in Article 35.~~

~~Member States shall ensure that binding technical rules are published and made available to all infrastructure managers, railway undertakings and applicants for authorisations for placing in service in clear language that can be understood by the parties concerned.~~

Article 1518

Procedure for establishing the 'EC' declaration of verification

↓ 2008/57/EC (adapted)
⇒ new

1. In order to establish the 'EC' declaration of verification, the applicant shall ask ~~invite~~ the notified conformity assessment 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 manufacturer, or their authorised representative within the ~~Community~~ Union .

2. The task of the notified conformity assessment 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 placed in service. It ~~shall~~ may 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 Articles ~~44 and 4534 and 35~~.

3. The notified conformity assessment body shall be responsible for compiling the technical file that has to accompany the 'EC' declaration of verification. This technical file shall ~~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 shall ~~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. Any amendment of the technical file referred to in paragraph 3 that has an impact on the verifications carried out implies the need to establish a new 'EC' declaration of verification.

↓ 2008/57/EC (adapted)
⇒ new

54. The notified conformity assessment body may issue intermediate statement verifications to cover certain stages of the verification procedure or certain parts of the subsystem. In such a case, the verification procedures ~~procedure~~ established in accordance with paragraph 7(a) ~~set out in Annex VI~~ shall apply.

~~65~~. If the relevant TSIs allow, the notified conformity assessment body may issue certificates of conformity for a series of subsystems or certain parts of those subsystems.

↓ new

7. The Commission shall establish, by means of implementing acts:

- (a) the verification procedures for subsystems, including the general principles, the content, procedure and documents related to the 'EC' verification procedure, and to the verification procedure in the case of national rules.
- (b) the templates for the 'EC' declaration of verification and for the declaration of verification in the case of national rules and templates for documents of the technical file that has to accompany the declaration of verification.

Those implementing acts shall be adopted in accordance with the examination procedure referred to Article 48(3).

↓ 2008/57/EC

Article ~~16~~

Non-compliance of subsystems with essential requirements

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 reasons therefor. The Commission shall consult the interested parties.

3. The Member State making the request shall state whether the failure to fully comply with this Directive is due to:

(a) non-compliance with the essential requirements or with a TSI, or incorrect application of a TSI; in that case, the Commission shall forthwith inform the Member State where the person who drew up the 'EC' declaration of verification in error resides and shall request that Member State to take the appropriate measures;

(b) inadequacy of a TSI; in that case, the procedure for amending the TSI as referred to in Article ~~67~~ shall apply.

↓ new

Article 17

Presumption of conformity

Interoperability constituents and subsystems which are in conformity with harmonised standards or parts thereof the references of which have been published in the Official Journal of the Union shall be presumed to be in conformity with the essential requirements covered by those standards or parts thereof set out in Annex III.

↓ 2008/57/EC

Article 20

~~Placing in service of existing subsystems after renewal or upgrading~~

~~1. In the event of renewal or upgrading, the contracting entity or the manufacturer 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 extent of the works means that a new authorisation for placing in service within the meaning of this Directive is needed.~~

~~Such new authorisation for placing in service shall be required whenever the overall safety level of the subsystem concerned may be adversely 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 take its decision not later than four months after submission of the complete file by the applicant.~~

~~2. When a new authorisation is required and if the TSI is not fully applied, the Member States shall notify the following information to the Commission:~~

~~— the reason why the TSI is not fully applied,~~

~~— the technical characteristics applicable in place of the TSI,~~

~~— the bodies responsible for applying, in the case of those characteristics, the verification procedure referred to in Article 18.~~

~~3. The Commission shall communicate the information referred to in paragraph 2 to the Agency, which shall publish it.~~

~~CHAPTER V~~

~~VEHICLES~~

↓ new

CHAPTER V

PLACING ON THE MARKET AND PLACING IN SERVICE

Article 18

Placing in service of fixed installations

1. The trackside control-command and signalling, energy and infrastructure subsystems shall be placed in service only if they are designed, constructed and installed in such a way as to meet the essential requirements as set out in Annex III, and the relevant authorisation is received in accordance with paragraph 2.

2. Each national safety authority shall authorise the placing in service of the energy and infrastructure subsystems which are located or operated in the territory of its Member State.

The Agency shall grant decisions authorising the placing in service of the trackside control-command and signalling subsystems located or operated throughout the Union.

The Agency and the national safety authorities shall provide detailed guidance on how to obtain the authorisations referred to in the first and second subparagraph. An application guidance document describing and explaining the requirements for those authorisations and listing the required documents shall be made available to applicants free of charge. The Agency and the national safety authorities shall cooperate in disseminating such information.

3. In order to authorise the placing in service of the subsystems referred to in paragraph 1, the national safety authority or the Agency, depending on which is the competent authority as set out in paragraph 2, shall obtain proof of:

- (a) the EC declaration of verification;
- (b) the technical compatibility of these subsystems with the system into which they are being integrated, established on the basis of the relevant TSIs, national rules and registers;
- (c) the safe integration of these subsystems, established on the basis of the relevant TSIs, national rules, registers, and the common safety methods set out in Article 6 of Directive.../... [on the safety of the rail system within the Union].

4. In the event of renewal or upgrading of existing subsystems, the applicant shall send to the national safety authority (for energy and infrastructure subsystems) or the Agency (for

trackside control-command and signalling subsystems), a file describing the project. The national safety authority or the Agency shall examine this file and shall decide, on the basis of the criteria set out in paragraph 5, whether a new authorisation for placing in service is needed. The national safety authority and the Agency shall take their decisions within a pre-determined, reasonable time, and, in any case, within four months from receipt of all relevant information.

5. In the event of renewal or upgrading of existing subsystems, a new 'EC' declaration of verification shall be needed as set out in Article 15(4). In addition, a new authorisation for placing in service shall be required when:

- (a) the overall safety level of the subsystem concerned may be adversely affected by the works envisaged; or
- (b) it is required by the relevant TSIs; or
- (c) it is required by the national implementation plans established by the Member States.

Article 19

Placing on the market of mobile subsystems

1. The rolling stock subsystem and the on-board control-command and signalling subsystem shall be placed on the market by the applicant only if they are designed, constructed and installed in such a way as to meet the essential requirements as set out in Annex III.

2. In particular, the applicant shall ensure that the EC declaration of verification has been provided.

3. In the event of renewal or upgrading of existing subsystems, a new 'EC' declaration of verification shall be needed as set out in Article 15(4).

↓ 2008/57/EC

~~*Article 21*~~

~~**Authorisation for placing in service of vehicles**~~

~~1. Before being used on a network, a vehicle shall be authorised to be placed in service by the national safety authority which is competent for this network, unless otherwise provided for in this Chapter.~~

~~2. A TSI conform vehicle shall be authorised in accordance with Articles 22 or 23.~~

~~3. A non TSI conform vehicle shall be authorised in accordance with Articles 24 or 25.~~

~~4. A vehicle which conforms to an authorised type shall be authorised in accordance with Article 26.~~

~~5. An authorisation granted by one Member State shall be valid in all Member States, without prejudice to the provisions of Articles 23 and 25 concerning additional authorisations. Member States shall clarify, by adopting specific national rules or through national provisions implementing this Directive, whether additional authorisations are needed in accordance with the relevant provisions of Article 23 in the case of TSI conform vehicles or Article 25 in the case of non-TSI conform vehicles.~~

~~6. All applications for an authorisation to place in service shall be the subject of a decision by the competent national safety authority, pursuant to Articles 22 and 23 or Articles 24 and 25. The authorisation to place in service may stipulate conditions of use and other restrictions.~~

~~7. Any decision by a competent national safety authority refusing the placing in service of a vehicle shall be duly substantiated. The applicant may within a period of one month from receipt of the negative decision request that the competent national safety authority reviewed the decision for duly justified reasons. The national safety authority shall then have two months starting from receipt of the appeal to confirm or reverse its decision. If the negative decision is confirmed, the applicant may request that the appeal body designated by the competent Member State under Article 17(3) of Directive 2004/49/EC review the decision for duly justified reasons. Member States may designate the regulatory body set up in accordance with Article 30 of Directive 2001/14/EC for the purpose of this appeal procedure.~~

~~8. In the absence of a decision of the competent national safety authority as referred to in Articles 23(7) and 25(5) within the prescribed time limits, the placing in service of the vehicle in question shall be deemed to have been authorised after a period of three months starting at the end of these time limits. The authorisations granted pursuant to this paragraph are only valid on the network for which the competent national safety authority did not react within the prescribed limits.~~

~~9. A national safety authority which intends to revoke an authorisation to place in service granted by itself or an authorisation granted to the applicant pursuant to paragraph 8 shall use the procedure for revision of safety certificates referred to in Article 10(5) of Directive 2004/49/EC or, where applicable, the procedure for revision of safety authorisations referred to in Article 11(2) of that Directive.~~

~~10. In the case of an appeal procedure, the competent appeal body referred to in paragraph 7 may request from the Agency an opinion which, in that case, shall be issued within one month of the request being filed and notified to the applicant, to the competent appeal body and to the competent national safety authority which refuses to grant the authorisation.~~

~~11. In the case of vehicles running between a Member State and a third country, on a network whose track gauge is different from that of the main rail network within the Community and for which a derogation may be granted in accordance with Article 9(5) or which are subject to specific cases, the national rules referred to in Articles 22 and 24 may include international agreements in so far as they are compatible with Community legislation.~~

~~12. Authorisations for placing in service which have been granted before 19 July 2008, including authorisations delivered under international agreements, in particular RIC (Regolamento Internazionale Carrozze) and RIV (Regolamento Internazionale Veicoli), shall remain valid in accordance with the conditions under which the authorisations have been granted. This provision takes precedence over Articles 22 to 25.~~

~~13. Member States may grant authorisations to place in service a series of vehicles. To that end, the national safety authorities shall notify the applicant of the procedure to be followed.~~

~~14. Authorisations for placing in service granted in accordance with this Article shall be without prejudice to other conditions imposed on railway undertakings and infrastructure managers for operating such vehicles on the relevant network, pursuant to Articles 9, 10 and 11 of Directive 2004/49/EC.~~

↓ new

Article 20

Vehicle authorisation for placing on the market

1. A vehicle shall be placed on the market only after having received the vehicle authorisation for placing on the market issued by the Agency in accordance with paragraph 5.

2. The Agency shall issue decisions granting vehicle authorisations for placing on the market. Those authorisations attest the values of the parameters relevant for checking the technical compatibility between the vehicle and the fixed installations as set out in the TSIs. The vehicle authorisation for placing on the market shall also provide information about the vehicle's compliance with the relevant TSIs and sets of national rules, related to these parameters.

3. The vehicle authorisation for placing on the market may stipulate conditions for the use of the vehicle and other restrictions.

4. The vehicle authorisation for placing on the market shall be issued on the basis of a file of the vehicle or type of vehicle produced by the applicant and including the documentary evidence of:

- (a) the placing on the market of the mobile subsystems composing the vehicle according to Article 19;
- (b) the technical compatibility of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant TSIs, national rules and registers;
- (c) the safe integration of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant TSIs, national rules, and the common safety methods set out in Article 6 of Directive .../... [on the safety of the rail system within the Union].

5. The Agency shall take the decisions referred to in paragraph 2 within a pre-determined, reasonable time, and, in any case, within four months from receipt of all relevant information. These authorisations shall be valid in all Member States.

The Agency shall provide detailed guidance on how to obtain the vehicle authorisation for placing on the market. An application guidance document describing and explaining the requirements for the vehicle authorisation for placing on the market and listing the required

documents shall be made available to applicants free of charge. The national safety authorities shall cooperate with the Agency in disseminating such information.

6. The Agency may issue vehicle authorisation for placing on the market for a series of vehicles. Those authorisations shall be valid in all Member States.

7. The applicant may bring an appeal before the Board of Appeal designated under Article 51 of Regulation (EU) No .../... [establishing a European railway agency] against decisions of the Agency or its failure to act within the time limits referred to in paragraph 5.

8. In the event of renewal or upgrading of existing vehicles which already have a vehicle authorisation for placing on the market:

- (a) a new 'EC' declaration of verification shall be needed as set out in Article 15(4), and
- (b) a new vehicle authorisation for placing on the market shall be required if any changes are made to the values of the parameters included in the vehicle authorisation already granted.

9. At the request of the applicant, the vehicle authorisation for placing on the market may include a clear indication of the networks or lines or groups of networks or lines where the railway undertaking may place such a vehicle in service without further verifications, checks or tests concerning the technical compatibility between the vehicle and these networks or lines. In that case, the applicant shall include in its request the proof of the technical compatibility of the vehicle with the networks or lines concerned.

This indication may be also added, at the request of the original or another applicant, after the relevant authorisation for placing on the market has been issued.

Article 21

Placing in service of vehicles

1. Railway undertakings shall place in service a vehicle only after having checked, in consultation with the infrastructure manager, the technical compatibility between the vehicle and the route and the safe integration of the vehicle into the system in which it is intended to operate, established on the basis of the relevant TSIs, national rules, registers, and the common safety methods set out in Article 6 of Directive.

To this aim, vehicles shall first receive the vehicle authorisation for placing on the market in accordance with Article 20.

2. The railway undertaking shall communicate its decisions with respect to the placing in service of vehicles to the Agency, the infrastructure manager and the national safety authority concerned. These decisions shall be recorded in the national vehicle registers referred to in Article 43.

3. In the event of renewal or upgrading of existing vehicles, a new 'EC' declaration of verification shall be needed as set out in Article 15(4). In addition, a new decision taken by the railway undertaking for placing in service of these vehicles shall be required when:

- (a) the overall safety level of the subsystem concerned may be adversely affected by the works envisaged, or
- (b) it is required by the relevant TSIs.

↓ 2008/57/EC

~~Article 22~~

~~First authorisation for placing in service of TSI conform vehicles~~

~~1. This Article shall apply to vehicles which are in conformity with all the relevant TSIs which are in force at the moment of placing in service, provided that a significant part of the essential requirements is laid down in these TSIs and that the relevant TSI on rolling stock has entered into force and is applicable.~~

~~2. The first authorisation shall be granted by a national safety authority as follows:~~

~~———— (a) where all the structural subsystems of a vehicle have been authorised in conformity with the provisions of Chapter IV, the authorisation shall be granted without further checks;~~

~~———— (b) in the case of vehicles bearing all necessary 'EC' declarations of verification as provided for in Article 18, the criteria which a national safety authority may check with a view to granting an authorisation for placing in service may concern only:~~

~~———— technical compatibility between the vehicle's relevant subsystems and their safe integration in accordance with Article 15(1);~~

~~———— technical compatibility between the vehicle and the network concerned;~~

~~———— national rules applicable to the open points;~~

~~———— national rules applicable to the specific cases duly identified in the relevant TSIs.~~

~~Article 23~~

~~Additional authorisations for placing in service of TSI conform vehicles~~

~~1. Vehicles in complete conformity with TSIs covering all aspects of the relevant subsystems without specific cases and without open points strictly related to technical compatibility between vehicle and network, shall not be subject to any additional authorisation for placing in service as long as they run on TSI conform networks in the other Member States or under the conditions specified in the corresponding TSIs.~~

~~2. In the case of vehicles placed in service in accordance with Article 22 but not covered by paragraph 1, Member States shall decide if additional authorisations are necessary on their territory. In this case, paragraphs 3 to 7 shall apply.~~

~~3. The applicant shall submit to the national safety authority a file on the vehicle or type of vehicle and the intended use thereof on the network. The file shall contain the following information:~~

~~— (a) documentary evidence that the placing in service of the vehicle has been authorised in another Member State in accordance with Article 22;~~

~~— (b) a copy of the technical file as referred to in Annex VI. This shall include, in the case of vehicles equipped with data recorders, information on the data collection procedure, permitting read-out and evaluation, as long as this information is not harmonised by the corresponding TSI;~~

~~— (c) records showing the vehicle's maintenance history and, where applicable, technical modifications undertaken after the authorisation;~~

~~— (d) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, control command and signalling system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network.~~

~~4. The criteria checked by a national safety authority may concern only:~~

~~— technical compatibility between the vehicle and the network concerned, including the national rules applicable to the open points needed to ensure such compatibility;~~

~~— the national rules applicable to the specific cases duly identified in the relevant TSIs.~~

~~5. The national safety authority may request additional information to be supplied, risk analyses to be carried out in accordance with Article 6(3)(a) of Directive 2004/49/EC or tests to be conducted on the network in order to verify the criteria referred to in paragraph 4. However, after the adoption of the reference document referred to in Article 27 of this Directive, the national safety authority may only carry out such verification on the basis of the national rules relating to Group B or C featuring in that document.~~

~~6. The national safety authority shall define, after consultation with the applicant, the scope and content of the additional information, the risk analyses and the tests requested. The infrastructure manager, in consultation with the applicant, shall make every effort to ensure that any tests take place within three months of the applicant's request. Where appropriate, the national safety authority shall take measures to ensure that the tests take place.~~

~~7. All applications for an authorisation to place in service submitted in accordance with this Article shall be the subject of a decision by the national safety authority, to be taken as soon as possible and not later than:~~

~~— (a) two months after submission of the file referred to in paragraph 3;~~

~~— (b) where applicable, one month after provision of any additional information requested by the national safety authority;~~

~~— (c) where applicable, one month after provision of the results of any tests requested by the national safety authority.~~

Article 24

~~First authorisation for placing in service of non-TSI conform vehicles~~

~~1. This Article shall apply to vehicles which are not in conformity with all the relevant TSIs in force at the moment of placing in service, including vehicles subject to derogations, or where a significant part of the essential requirements is not laid down in one or more TSIs.~~

~~2. The first authorisation shall be granted by a national safety authority as follows:~~

~~— for the technical aspects covered by a TSI, if any, the 'EC' verification procedure shall apply;~~

~~— for the other technical aspects, national rules as notified under Article 17(3) of this Directive and under Article 8 of Directive 2004/49/EC shall apply.~~

~~This first authorisation shall be valid only on the network of the Member State granting it.~~

Article 25

~~Additional authorisations for placing in service of non-TSI conform vehicles~~

~~1. In the case of vehicles that have been authorised to be placed in service in one Member State in accordance with Article 21(12) or Article 24, other Member States may decide in accordance with this Article whether additional authorisations to place in service are necessary on their territory.~~

~~2. The applicant shall submit to the national safety authority a technical file on the vehicle or type of vehicle, together with details of planned use on the network. The file shall contain the following information:~~

~~— (a) documentary evidence that the placing in service of the vehicle has been authorised in another Member State together with documentation on the procedure followed in order to show that the vehicle complied with the safety requirements in force, including, where applicable, information on derogations enjoyed or granted in accordance with Article 9;~~

~~— (b) the technical data, the maintenance programme and the operational characteristics. This shall include, in the case of vehicles equipped with data recorders, information on the data collection procedure, permitting read-out and evaluation as provided for in Article 20(2)(e) of Directive 2004/49/EC;~~

~~— (c) records showing the vehicle's history of operation, maintenance and, where applicable, technical modifications undertaken after the authorisation;~~

~~— (d) evidence on technical and operational characteristics that shows that the vehicle is compatible with the infrastructures and fixed installations, including climate conditions, energy supply system, control-command and signalling system, track gauge and infrastructure gauges, maximum permitted axle load and other constraints of the network.~~

~~3. The information referred to in paragraph 2(a) and (b) may not be called into question by the national safety authority, save where the latter is able to demonstrate without prejudice to Article 16 the existence of a substantial safety risk. After the adoption of the reference document referred to in Article 27, the national safety authority may not invoke in this regard any Group A rule listed in that document.~~

~~4. The national safety authority may request additional information to be supplied, risk analyses to be carried out in accordance with Article 6(3)(a) of Directive 2004/49/EC or tests to be conducted on the network in order to verify that the information referred to in paragraph 2(c) and (d) of this Article complies with the national rules in force as notified to the Commission pursuant to Article 8 of Directive 2004/49/EC or to Article 17 of this Directive. However, after the adoption of the reference document referred to in Article 27 of this Directive, the national safety authority may only carry out such verification on the basis of the national rules relating to Group B or C listed in that document.~~

~~The national safety authority shall define, after consultation with the applicant, the scope and content of the additional information, the risk analyses or the tests requested. The infrastructure manager, in consultation with the applicant, shall make every effort to ensure that any tests take place within three months of the applicant's request. Where appropriate, the national safety authority shall take measures to ensure that the tests take place.~~

~~5. All applications for an authorisation to place in service submitted in accordance with this Article shall be the subject of a decision by the national safety authority, to be taken as soon as possible and not later than:~~

~~— (a) four months after submission of the technical file referred to in paragraph 2;~~

~~— (b) where applicable, two months after provision of the additional information or risk analyses requested by the national safety authority pursuant to paragraph 4;~~

~~— (c) where applicable, two months after provision of the results of the tests requested by the national safety authority pursuant to paragraph 4.~~

↓ 2008/57/EC (adapted)
⇒ new

Article ~~22~~26

Authorisation ~~for~~ ☒ to place vehicle ☒ types of vehicles ☒ on the market ☒

1. ⇒ The Agency shall ☐ ~~Member States may~~ grant authorisations ~~for~~ ☒ to place vehicle ☒ types of vehicles ☒ on the market ☒ .

↓ new

The Agency shall provide detailed guidance on how to obtain the authorisation to place vehicle types on the market. An application guidance document describing and explaining the requirements for the authorisation to place vehicle types on the market and listing the required documents shall be made available to applicants free of charge. The national safety authorities shall cooperate with the Agency in disseminating such information.

↓ 2008/57/EC
⇒ new

2. However, if ⇒ the Agency ⇐ ~~Member States~~ ⇐ issues a vehicle authorisation for placing on the market, it ⇐ ~~authorise a vehicle, they~~ shall at the same time ~~authorise~~ ⇐ issue the authorisation to place the corresponding vehicle type on the market ⇐ ~~the type of vehicle~~.

↓ new

3. A vehicle which is in conformity with a vehicle type for which an authorisation to place the corresponding vehicle type on the market has been already issued shall, without further checks, receive a vehicle authorisation for placing on the market on the basis of a declaration of conformity to this type submitted by the applicant.

↓ 2008/57/EC

~~3. A vehicle which conforms to a type already authorised in a Member State shall be authorised by that Member State on the basis of a declaration of conformity to this type submitted by the applicant without further checks. However, where the relevant provisions in TSIs and national rules on the basis of which a type of vehicle was authorised have changed, Member States shall decide if authorisations of type already granted remain valid or need to be renewed. The criteria which a national safety authority checks in the case of a renewed authorisation of type may only concern the changed rules. The renewal of the type authorisation does not affect authorisations of vehicles already granted on the basis of previously authorised types.~~

↓ new

4. In the event of changes to any relevant provisions in TSIs or national rules, on the basis of which an authorisation to place a vehicle type on the market has been issued, the TSI or national rule shall determine whether the authorisation to place that vehicle type on the market already granted remains valid or needs to be renewed. If that authorisation needs to be renewed, the checks performed by the Agency may only concern the changed rules. The renewal of the authorisation to place a vehicle type on the market does not affect vehicle authorisations for placing on the market already issued on the basis of the previous authorisation to place that vehicle type on the market.

↓ 2008/57/EC
⇒ new

~~54. The model of declaration of conformity to type shall be adopted ⇐ established in accordance with Decision 2010/713/EU ⇐ by the Commission by 19 July 2009 on the basis of a draft prepared by the Agency and in accordance with the regulatory procedure referred to in Article 29(3).~~

65. The declaration of conformity to type shall be established in accordance with:

- (a) for TSI-conform vehicles, the verification procedures of the relevant TSIs;

~~(b) for non-TSI conform vehicles, the verification procedures as defined in modules D or E of Decision 93/465/EEC. Where appropriate, the Commission may adopt an ad hoc verification procedure in accordance with the regulatory procedure referred to in Article 29(3).~~

⇓ new

(b) for non-TSI-conform vehicles, the conformity assessment procedures as defined in modules B+D and B+F of Decision 768/2008/EC. Where appropriate, the Commission may adopt implementing acts establishing ad hoc modules for conformity assessment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3).

⇓ 2008/57/EC

~~6. The applicant may request a type authorisation in several Member States at the same time. In this case, national safety authorities shall cooperate with a view to simplifying the procedure and minimising administrative efforts.~~

⇓ 2008/57/EC (adapted)
⇒ new

~~7. Type authorisations ⇨ The authorisation to place vehicle types on the market ⇩ shall be registered in the European register of authorised ⇨ authorisations to place a vehicle types on the market ⇩ types of vehicles referred to in Article 4434. This register shall specify the Member State or Member States in which a type of vehicle is authorised.~~

⇓ 2008/57/EC

Article 27

Classification of national rules

~~1. In order to facilitate the procedure for authorising the placing in service of vehicles referred to in Article 25, national rules shall be classified pursuant to Annex VII.~~

~~2. Without prejudice to Article 30(3), the Agency shall, by 19 January 2009, review the parameters set out in section 1 of Annex VII and make the recommendations it considers appropriate to the Commission.~~

~~3. The Agency shall draw up a recommendation for a reference document cross-referencing all the national rules applied by the Member States for placing vehicles in service. The national safety authorities shall cooperate with the Agency in this task.~~

~~4. The Commission shall adopt the reference document, as well as any decision to update it, on the basis of the Agency's recommendation and in accordance with the regulatory procedure referred to in Article 29(3).~~

CHAPTER VI

↓ 2008/57/EC (adapted)

~~NOTIFIED BODIES~~ ☒ NOTIFICATION OF CONFORMITY ASSESSMENT BODIES ☒

↓ 2008/57/EC

Article 28

Notified bodies

~~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 Union* the list of bodies, their identification numbers and areas of responsibility, and shall keep this list updated.~~

~~2. Member States shall apply the criteria provided for in Annex VIII 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 those criteria.~~

~~3. A Member State shall withdraw approval from a body which no longer meets the criteria referred to in Annex VIII. 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 criteria referred to in Annex VIII, the Commission shall consult the parties concerned. The Commission shall inform the latter Member State 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 29 of the work carried out in the framework of the 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 30(4).~~

~~6. The first of the reports referred to in Article 39 shall also assess the implementation of the criteria specified in Annex VIII, and, if necessary, propose appropriate measures.~~

*Article 23***Notification**

Member States shall notify the Commission and the other Member States of bodies authorised to carry out third-party conformity assessment tasks under this Directive.

*Article 24***Notifying authorities**

1. Member States shall designate a notifying authority that shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified conformity assessment bodies, including compliance with the provisions of Articles 27 to 29.
2. Member States may decide that the assessment and monitoring referred to in paragraph 1 shall be carried out by a national accreditation body within the meaning of and in accordance with Regulation (EC) No 765/2008.
3. Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in paragraph 1 to a body which is not a governmental entity, that body shall be a legal entity and shall comply with the requirements laid down in Article 25. It shall put in place arrangements to cover liabilities arising out of its activities.
4. The notifying authority shall take full responsibility for the tasks performed by the body referred to in paragraph 3.

*Article 25***Requirements relating to notifying authorities**

1. A notifying authority shall be established in such a way that no conflict of interest with conformity assessment bodies occurs.
2. A notifying authority shall be organised and operated so as to safeguard the objectivity and impartiality of its activities.
3. A notifying authority shall be organised in such a way that each decision relating to notification of a conformity assessment body is taken by competent persons different from those who carried out the assessment.
4. A notifying authority shall not offer or provide any activities that are performed by conformity assessment bodies or consultancy services on a commercial or competitive basis.
5. A notifying authority shall safeguard the confidentiality of the information it obtains.

6. A notifying authority shall have a sufficient number of competent personnel at its disposal for the proper performance of its tasks.

Article 26

Information obligation on notifying authorities

Member States shall inform the Commission of their procedures for the assessment and notification of conformity assessment bodies and the monitoring of notified bodies, and of any changes thereto.

The Commission shall make that information publicly available.

Article 27

Requirements relating to conformity assessment bodies

1. For the purposes of notification, a conformity assessment body shall meet the requirements laid down in paragraphs 2 to 7 and in Articles 28 and 29. These requirements are also applicable to bodies designated by Member States pursuant to Article 13(4).

2. A conformity assessment body shall be established under national law and have legal personality.

3. A conformity assessment body shall be capable of carrying out all the conformity assessment tasks assigned to it by the relevant TSI and in relation to which it has been notified, whether those tasks are carried out by the conformity assessment body itself or on its behalf and under its responsibility.

At all times and for each conformity assessment procedure and each kind or category of products in relation to which it has been notified, a conformity assessment body shall have at its disposal :

(a) the necessary personnel with technical knowledge and sufficient and appropriate experience to perform the conformity assessment tasks;

(b) the relevant descriptions of procedures in accordance with which conformity assessment is carried out, ensuring the transparency and the ability of reproduction of those procedures. It shall have appropriate policies and procedures in place that distinguish between tasks it carries out as a notified conformity assessment body and other activities;

(c) the proper procedures for the performance of activities which take due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

It shall have the means necessary to perform the technical and administrative tasks connected with the conformity assessment activities in an appropriate manner and shall have access to all necessary equipment or facilities.

4. Conformity assessment bodies shall take out liability insurance unless liability is assumed by the State in accordance with national law, or the Member State itself is directly responsible for the conformity assessment.
5. The personnel of a conformity assessment body shall observe professional secrecy with regard to all information obtained in carrying out their tasks under the relevant TSI or any provision of national law giving effect to it, except in relation to the competent authorities of the Member State in which its activities are carried out. Proprietary rights shall be protected.
6. Conformity assessment bodies shall participate in, or ensure that their assessment personnel are informed of, the relevant standardisation activities and the activities of the notified conformity assessment bodies coordination group established under the relevant Union's legislation and apply as general guidance the administrative decisions and documents produced as a result of the work of that group.
7. Conformity assessment bodies shall participate in, or shall ensure that their assessment personnel are informed of, the activities of the ERTMS ad hoc working group set out in Article 25 of Regulation (EU) No .../... [establishing a European railway agency]. They shall follow the guidelines produced as a result of the work of that group. In case they consider it inappropriate or impossible to apply them, the conformity assessment bodies concerned shall submit their observations for discussion to the ERTMS ad hoc working group for the continuous improvement of the guidelines.

Article 28

Impartiality of conformity assessment bodies

1. A conformity assessment body shall be a third-party body independent from the organisation or from the manufacturer of the product it assesses.

A body belonging to a business association or professional federation representing undertakings involved in the design, manufacturing, provision, assembly, use or maintenance of products which it assesses, may, on condition that its independence and the absence of any conflict of interest are demonstrated, be considered such a body.
2. The impartiality of the conformity assessment bodies, their top level management and of the assessment personnel shall be guaranteed.
3. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be the designer, manufacturer, supplier, installer, purchaser, owner, user or maintainer of the products which they assess, nor the authorised representative of any of those parties. This shall not preclude the use of assessed products that are necessary for the operations of the conformity assessment body or the use of such products for personal purposes.
4. A conformity assessment body, its top level management and the personnel responsible for carrying out the conformity assessment tasks shall not be directly involved in the design, manufacture or construction, the marketing, installation, use or maintenance of those products, or represent the parties engaged in those activities. They shall not engage in any activity that may conflict with their independence of judgement or integrity in relation to conformity assessment activities for which they are notified. This shall in particular apply to consultancy services.

5. Conformity assessment bodies shall ensure that the activities of their subsidiaries or subcontractors do not affect the confidentiality, objectivity or impartiality of their conformity assessment activities.

6. Conformity assessment bodies and their personnel shall carry out the conformity assessment activities with the highest degree of professional integrity and the requisite technical competence in the specific field and shall be free from all pressures and inducements, particularly financial, which might influence their judgement or the results of their conformity assessment activities, especially as regards persons or groups of persons with an interest in the results of those activities.

Article 29

Personnel of conformity assessment bodies

1. The personnel responsible for carrying out conformity assessment activities shall have the following skills:

(a) sound technical and vocational training covering all the conformity assessment activities in relation to which the conformity assessment body has been notified;

(b) satisfactory knowledge of the requirements of the assessments they carry out and adequate authority to carry out those assessments;

(c) appropriate knowledge and understanding of the essential requirements, of the applicable harmonised standards and of the relevant provisions of Union's legislation and of its implementing regulations;

(d) the ability to draw up certificates, records and reports demonstrating that assessments have been carried out.

2. The remuneration of the top level management and assessment personnel of a conformity assessment body shall not depend on the number of assessments carried out or on the results of those assessments.

Article 30

Presumption of conformity of a conformity assessment body

Where a conformity assessment body demonstrates its conformity with the criteria laid down in the relevant harmonised standards or parts thereof the references of which have been published in the *Official Journal of the European Union*, it shall be presumed to comply with the requirements set out in Articles 27 to 29, in so far as the applicable harmonised standards cover those requirements.

Article 31

Subsidiaries of and subcontracting by conformity assessment bodies

1. Where a notified conformity assessment body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or

the subsidiary meets the requirements set out in Articles 27 to 29 and shall inform the notifying authority accordingly.

2. Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

3. Activities of notified bodies may be subcontracted or carried out by a subsidiary only with the agreement of the client.

4. Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by them under the relevant TSI.

Article 32

Accredited in-house bodies

1. The applicant undertaking may use an accredited in-house body to carry out conformity assessment activities for the purpose of implementing the procedures set out in modules A1, A2, C1 or C2 defined in Annex II to Decision 768/2008/EC and modules CA1, and CA2 defined in Annex I to Decision 2010/713/EC. That body shall constitute a separate and distinct part of the applicant undertaking and shall not participate in the design, production, supply, installation, use or maintenance of the products it assesses.

2. An accredited in-house body shall meet the following requirements:

(a) it shall be accredited in accordance with Regulation (EC) No 765/2008;

(b) the body and its personnel shall be organisationally identifiable and have reporting methods within the undertaking of which they form a part which ensure their impartiality and demonstrate it to the relevant national accreditation body;

(c) neither the body nor its personnel shall be responsible for the design, manufacture, supply, installation, operation or maintenance of the products they assess nor shall they engage in any activity that might conflict with their independence of judgment or integrity in relation to their assessment activities;

(d) the body shall supply its services exclusively to the undertaking of which it forms a part.

3. An accredited in-house body shall not be notified to the Member States or the Commission, but information concerning its accreditation shall be given by the undertaking of which it forms a part or by the national accreditation body to the notifying authority at the request of that authority.

Article 33

Application for notification

1. A conformity assessment body shall submit an application for notification to the notifying authority of the Member State in which it is established.

2. That application shall be accompanied by a description of the conformity assessment activities, the conformity assessment module or modules and the product or products for which that body claims to be competent, as well as by an accreditation certificate, where one exists, issued by a national accreditation body attesting that the conformity assessment body fulfils the requirements laid down in Articles 27 to 29.

3. Where the conformity assessment body concerned cannot provide an accreditation certificate, it shall provide the notifying authority with all the documentary evidence necessary for the verification, recognition and regular monitoring of its compliance with the requirements laid down in Articles 27 to 29.

Article 34

Notification procedure

1. Notifying authorities may notify only conformity assessment bodies which comply with the requirements laid down in Articles 27 to 29.

2. They shall notify the Commission and the other Member States using the electronic notification tool developed and managed by the Commission.

3. The notification shall include full details of the conformity assessment activities, the conformity assessment module or modules and product or products concerned and the relevant attestation of competence.

4. Where a notification is not based on an accreditation certificate as referred to in Article 33(2), the notifying authority shall provide the Commission and the other Member States with documentary evidence which attests to the conformity assessment body's competence and the arrangements in place to ensure that that body will be monitored regularly and will continue to satisfy the requirements laid down in Articles 27 to 29.

5. The body concerned may perform the activities of a notified conformity assessment body only where no objections are raised by the Commission or the other Member States within two weeks of a notification where an accreditation certificate is used or within two months of a notification where accreditation is not used.

6. The Commission and the other Member States shall be notified of any subsequent relevant changes to the notification.

Article 35

Identification numbers and lists of notified conformity assessment bodies

1. The Commission shall assign an identification number to a notified conformity assessment body.

A notified conformity assessment body shall be assigned a single identification number even where it is notified under several Union acts.

2. The Commission shall make publicly available the list of the bodies notified under this Directive, including the identification numbers that have been allocated to them and the activities for which they have been notified.

The Commission shall ensure that that list is kept up to date.

Article 36

Changes to notifications

1. Where a notifying authority has ascertained or has been informed that a notified conformity assessment body no longer meets the requirements laid down in Articles 27 to 29, or that it is failing to fulfil its obligations, the notifying authority shall restrict, suspend or withdraw notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfil those obligations. It shall immediately inform the Commission and the other Member States accordingly.

2. In the event of restriction, suspension or withdrawal of notification, or where the notified conformity assessment body has ceased its activity, the notifying Member State shall take appropriate steps to ensure that the files of that body are either processed by another notified conformity assessment body or kept available for the responsible notifying and market surveillance authorities at their request.

Article 37

Challenge of the competence of notified bodies

1. The Commission shall investigate all cases where it doubts, or doubt is brought to its attention, regarding the competence of a notified conformity assessment body or the continued fulfilment by a notified conformity assessment body of the requirements and responsibilities to which it is subject.

2. The notifying Member State shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned.

3. The Commission shall ensure that all sensitive information obtained in the course of its investigations is treated confidentially.

4. Where the Commission ascertains that a notified conformity assessment body does not meet or no longer meets the requirements for its notification, it shall inform the notifying Member State accordingly and request it to take the necessary corrective measures, including withdrawal of notification if necessary.

Article 38

Operational obligations of notified bodies

1. Notified bodies shall carry out conformity assessments in accordance with the conformity assessment procedures provided for in the relevant TSI.

2. Conformity assessments shall be carried out in a proportionate manner, avoiding unnecessary burdens for economic operators. Conformity assessment bodies shall perform their activities taking due account of the size of an undertaking, the sector in which it operates, its structure, the degree of complexity of the product technology in question and the mass or serial nature of the production process.

In so doing they shall nevertheless operate with the aim of assessing the compliance of the product with the provisions of this Directive.

3. Where a notified conformity assessment body finds that requirements laid down in the relevant TSI or corresponding harmonised standards or technical specifications have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures and shall not issue a conformity certificate.

4. Where, in the course of the monitoring of conformity following the issue of a certificate, a notified conformity assessment body finds that a product no longer complies with the relevant TSI or corresponding harmonised standards or technical specifications, it shall require the manufacturer to take appropriate corrective measures and shall suspend or withdraw the certificate if necessary.

5. Where corrective measures are not taken or do not have the required effect, the notified conformity assessment body shall restrict, suspend or withdraw any certificates, as appropriate.

Article 39

Information obligation on notified bodies

1. Notified bodies shall inform the notifying authority of the following:

(a) any refusal, restriction, suspension or withdrawal of a certificate;

(b) any circumstances affecting the scope of and conditions for notification;

(c) any request for information which they have received from market surveillance authorities regarding conformity assessment activities;

(d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

2. Notified bodies shall provide the other bodies notified under this Directive carrying out similar conformity assessment activities covering the same products with relevant information on issues relating to negative and, on request, positive conformity assessment results.

3. Notified bodies shall provide to the Agency the EC certificates of verification of subsystems, the EC certificates of conformity of interoperability constituents and the EC certificates of suitability of use of interoperability constituents.

Article 40

Exchange of experience

The Commission shall provide for the organisation of exchange of experience between the Member States' national authorities responsible for notification policy.

Article 41

Coordination of notified bodies

The Commission shall ensure that appropriate coordination and cooperation between bodies notified under this Directive are put in place and properly operated in the form of a sectoral group of notified bodies. The Agency shall support the activities of notified bodies in accordance with Article 20 of Regulation (EU) No .../... [establishing a European railway agency].

Member States shall ensure that the bodies notified by them participate in the work of that group, directly or by means of designated representatives.

↓ 2008/57/EC

~~CHAPTER VII~~

~~COMMITTEE AND WORK PROGRAMME~~

~~Article 31~~

~~Work programme~~

~~1. The Commission shall draw up a work programme taking account of the extension of the scope provided for in Article 8, the amendment of the TSIs provided for in Article 6(1) and the other obligations imposed on it by this Directive. The Commission shall keep the Committee fully informed on and involved in the drawing up and updating of the programme.~~

~~2. The work programme shall consist of the following stages:~~

~~———— (a) development on the basis of a draft prepared by the Agency of a model of the Community rail system, based on the list of subsystems (Annex II), to guarantee consistency between TSIs; this model must include in particular the various constituents of the system and their interfaces and act as a reference framework for defining the areas of use of each TSI;~~

~~———— (b) development of a model structure for developing TSIs;~~

~~———— (c) development 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) 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 and publication of the TSIs, including the adoption of the reference system referred to in Article 36.~~

↓ 2008/57/EC (adapted)
⇒ new

CHAPTER VIII

REGISTERS OF NETWORK AND VEHICLES

Article ~~4232~~

Vehicle numbering system

1. Any vehicle placed in service in the ~~Community~~ ☒ Union's ☒ rail system shall carry a European vehicle number (EVN) assigned ⇒ by the national safety authority competent for the relevant territory before the first placing in service of the vehicle ⇐ ~~when the first authorisation for placing in service is granted.~~

↓ 2008/57/EC

~~2. The applicant for the first authorisation shall be responsible for marking the vehicle in question with the EVN assigned to it.~~

↓ new

The railway undertaking operating a vehicle shall ensure the vehicle is marked with the assigned EVN.

↓ 2008/57/EC (adapted)
⇒ new

3. The EVN ~~shall be~~ ☒ is ☒ specified in ⇒ Decision 2007/756/EC ⇐ ~~the TSI on operation and traffic management.~~

↓ 2008/57/EC
⇒ new

4. A vehicle shall be assigned an EVN only once, unless otherwise specified in ⇒ Decision 2007/756/EC ⇐ ~~the TSI on operation and traffic management.~~

↓ 2008/57/EC (adapted)

5. Notwithstanding paragraph 1, in the case of vehicles operated or intended to be operated from or to third countries the track gauge of which is different from that of the main rail network within the ~~Community~~ ☒ Union ☒, Member States may accept vehicles clearly identified according to a different coding system.

↓ 2008/57/EC
⇒ new

Article ~~43~~33

National vehicle registers

1. Each Member State shall keep a register of the vehicles ~~authorised~~ ⇒ placed in service ⇐ in its territory. This register shall meet the following criteria:

- (a) it shall comply with the common specifications referred to in paragraph 2;
 - (b) it shall be kept updated by a body independent of any railway undertaking;
-

↓ 2008/57/EC (adapted)

(c) it shall be accessible to the ☒ national ☒ safety authorities and investigating bodies designated in Articles 16 and 21 of Directive ~~[.../... on the safety of the rail system within the Union] 2004/49/EC~~; it shall also be made accessible, in response to any legitimate request, to the regulatory bodies designated in Articles 55 and 56 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area²⁷ ~~Article 30 of Directive 2001/14/EC~~, and to the Agency, the railway undertakings and the infrastructure managers, as well as those persons or organisations registering vehicles or identified in the register.

↓ 2008/57/EC

~~2. Common specifications for the register shall be adopted in accordance with the regulatory procedure referred to in Article 29(3) and on the basis of draft specifications prepared by the Agency. Those draft specifications shall include content, data format, functional and technical architecture, operating mode, including arrangements for the exchange of data, and rules for data input and consultation.~~

↓ new

2. The Commission shall adopt common specifications on content, data format, functional and technical architecture, operating mode, including arrangements for the exchange of data, and rules for data input and consultation for the national vehicle registers by means of

²⁷ OJL 343 of 14.12.2012, p. 32.

implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3)

↓ 2008/57/EC

~~For each vehicle, the register shall contain at least the following information:~~

~~— (a) the EVN;~~

~~— (b) references to the 'EC' declaration of verification and the issuing body;~~

~~— (c) references to the European register of authorised types of vehicles referred to in Article 34;~~

~~— (d) identification of the owner of the vehicle and the keeper;~~

~~— (e) restrictions on how the vehicle may be used;~~

~~— (f) the entity in charge of maintenance.~~

↓ 2008/57/EC (adapted)

⇒ new

3. The registration holder shall immediately declare any modification to the data entered in the national vehicle register, the destruction of a vehicle or its decision to no longer register a vehicle, to the national safety authority of any Member State where the vehicle has been ⇒ placed in service ⇐ ~~authorised~~.

↓ 2008/57/EC

⇒ new

4. As long as Member States' national vehicle registers are not linked, each Member State shall update its register with the modifications made by another Member State in its own register, as regards the data with which it is concerned.

5. In the case of vehicles placed in service for the first time in a third country and ~~authorised~~ ⇒ subsequently placed in service ⇐ in a Member State, ~~for placing in service on its territory,~~ that Member State shall ensure that the ⇒ vehicle ⇐ data ~~listed in paragraph 2(d) to (f)~~ can be retrieved through the national vehicle register ⇒ or through provisions of an international agreement ⇐ . ~~Data referred to in paragraph 2(f) may be substituted by safety critical data relating to the maintenance schedule.~~

Article ~~4434~~

↓ 2008/57/EC (adapted)

⇒ new

European register of authorised types of vehicles **authorisation to place vehicle types on the market**

↓ 2008/57/EC
⇒ new

1. The Agency shall set up and keep a register of ⇒ authorisations to place vehicle types on the market issued in accordance with Article 22 ⇐ ~~types of vehicles authorised by the Member States for placing in service on the Community rail network~~. This register shall meet the following criteria:

- (a) it shall be public and electronically accessible;
- (b) it shall comply with the common specifications referred to in paragraph 34;
- (c) it shall be linked with all national vehicle registers.

↓ new

2. The Commission shall adopt common specifications relating to content, data format, functional and technical architecture, operating mode and rules for data input and consultation for the register of authorisations to place vehicle types on the market by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3).

↓ 2008/57/EC

~~2. This register shall include the following details for each type of vehicle:~~

- ~~(a) the technical characteristics of the type of vehicle, as defined in the relevant TSIs;~~
- ~~(b) the manufacturer's name;~~
- ~~(c) the dates, references and Member States granting the successive authorisations for this type of vehicle, including any restrictions or withdrawals.~~

~~3. When an authorisation of type is granted, modified, suspended or withdrawn in a Member State, the national safety authority of this Member State shall inform the Agency, so that the latter may update the register.~~

~~4. Common specifications for the register shall be adopted in accordance with the regulatory procedure referred to in Article 29(3) and on the basis of draft specifications prepared by the Agency. Those draft specifications shall include content, data format, functional and technical architecture, operating mode and rules for data input and consultation.~~

Article ~~45~~35

Register of infrastructure

↓ new

1. Each Member State shall publish a register of infrastructure stating the values of the network parameters of each subsystem or part of subsystem concerned.

2. The values of the parameters recorded in the register of infrastructure shall be used in combination with the values of the parameters recorded in the vehicle authorisation for placing on the market to check the technical compatibility between vehicle and network.
3. The register of infrastructure may stipulate conditions for the use of fixed installations and other restrictions.
4. Each Member State shall update the register of infrastructure in accordance with Commission Decision 2011/633/EU.
5. Other registers, such as a register on accessibility, may also be associated to the register of infrastructure.
6. The Commission shall adopt common specifications relating to content, data format, functional and technical architecture, operating mode and rules for data input and consultation for the register of infrastructure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 48(3)

↓ 2008/57/EC

~~1. Each Member State shall ensure that a register of infrastructure is published and updated on the basis of the revision cycle referred to in paragraph 2. This register 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 under the applicable TSIs. To that end, each TSI shall indicate precisely what information must be included in the register of infrastructure.~~

~~2. The Agency shall prepare draft specifications on this register regarding its presentation and format, its revision cycle and instructions for use, taking into account an appropriate transition period for infrastructures placed in service before the entry into force of this Directive. The Commission shall adopt the specifications in accordance with the regulatory procedure referred to in Article 29(3).~~

~~CHAPTER IX~~

~~TRANSITIONAL PROVISIONS~~

~~Article 36~~

~~Draft reference systems~~

~~1. The Agency shall develop, in accordance with Articles 3 and 12 of Regulation (EC) No 881/2004 and on the basis of the information notified by the Member States under Article 17(3) of this Directive, 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 networks and vehicles that will be brought within the scope of this Directive, as defined in Article 1 of this Directive. If necessary, the Commission~~

~~shall adopt the reference system in accordance with the regulatory procedure referred to in Article 29(3) of this Directive.~~

~~2. Following adoption of this reference system, Member States shall inform 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.~~

↓ 2008/57/EC (adapted)

CHAPTER VIII

⊗ TRANSITIONAL AND ⊗ FINAL PROVISIONS

↓ new

Article 46

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 4(2) and 5(3) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.
3. The delegation of power referred to in Articles 4(2) and 5(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 4(2) and 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 47

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of

a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 46(5). In such a case, the Commission shall repeal the act without delay following the notification of the decision to object by the European Parliament or the Council.

↓ 2008/57/EC (adapted)
⇒ new

Article 48~~29~~

Committee procedure

1. The Commission shall be assisted by the committee established by Article 21 of Directive 96/48/EC (~~hereinafter referred to as the Committee~~). ⇒ That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. ⇐

2. Where reference is made to this paragraph, Articles ~~3 and 7~~ ⇒ 4 of Regulation (EU) No 182/2011 ⇐ ~~3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

3. Where reference is made to this paragraph, Articles ~~5 and 7~~ ⇒ 5 of Regulation (EU) No 182/2011 ⇐ ~~5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

↓ new

4. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 shall apply.

↓ 2008/57/EC

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

~~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.~~

~~5. Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.~~

Article 30

Complementary tasks

~~1. The Commission may submit to the Committee any matter relating to the implementation of this Directive.~~

~~2. The Committee may discuss any matter relating to the interoperability of the rail system, including questions relating to interoperability between the rail system within the Community and the rail system of third countries.~~

~~3. Measures designed to amend non-essential elements of this Directive and relating to the adaptation of Annexes II to IX shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(4).~~

~~4. 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.~~

↓ 2008/57/EC
⇒ new

Article ~~49~~³⁷

Motivation

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 rail system or any decision taken pursuant to Articles ~~67~~, ~~42~~, ~~1144~~ and ~~1619~~ shall set out in detail the reasons on which it is based. It shall be notified as soon as possible to the party concerned, together with an indication of the remedies available under the law in force in the Member State concerned and of the time limits allowed for the exercise of such remedies.

Article ~~50~~³⁹

Reports and information

1. Every three years and for the first time ⇒ three years after the publication of this Directive ⇐ ~~19 July 2011~~, the Commission shall report to the European Parliament and the Council on the progress made towards achieving interoperability of the rail system. That report shall also include an analysis of the cases set out in Article ~~79~~ ⇒ and of the application of Chapter V ⇐.

~~2. The Commission shall, by 19 July 2013, publish a report including an analysis of the application of Chapter V and of the improvements in the cross-acceptance of vehicles in the Community in terms of length and costs of the procedures for applicants. Where appropriate, the report shall also assess the impact of various options for further simplifying procedures relating to the authorisation of vehicles. In this case, several options concerning cooperation between national safety authorities and the Agency shall be analysed.~~

↓ 2008/57/EC (adapted)

~~32.~~ The Agency shall develop and regularly update a tool capable of providing, at the request of a Member State or the Commission, ~~an overview~~ ~~a chart~~ of the interoperability level of the rail system. That tool shall use the information included in the registers provided for in Chapter VII Articles 33, 34 and 35.

Article 51

Transitional regime for placing in service of vehicles

1. Member States may continue to apply the provisions set out in Chapter V of Directive 2008/57/EC until [two years after the date of entry into force].
2. Authorisations for placing in service of vehicles which have been granted pursuant to paragraph 1, including authorisations delivered under international agreements, in particular RIC (Regolamento Internazionale Carrozze) and RIV (Regolamento Internazionale Veicoli), shall remain valid in accordance with the conditions under which the authorisations have been granted.
3. Vehicles authorised for placing in service pursuant to paragraphs 1 and 2, have to receive a vehicle authorisation for placing on the market in order to operate on one or more networks not covered by their authorisation. The placing in service on these additional networks is subject to the provisions of Article 21.

Article 52

Other transitional provisions

Annexes IV, V, VI, VII and IX to Directive 2008/57/EC shall apply until the date of application of the corresponding implementing acts referred to in Articles 8(2), 14(8), 15(7) and 7(3) of this Directive.

Article 53

Recommendations and opinions and of the Agency

The Agency shall provide recommendations and opinions in accordance with Article 15 of Regulation .../... [Agency Regulation] for the purpose of application of this Directive. These recommendations and opinions will serve as basis for any Union measure adopted pursuant this Directive.

Article ~~54~~³⁸

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with ~~Article 1, Article 2, Article 4(2), Article 5(2), (5), (6) and (8), Article 6(1), (2), (3), (9) and (10), Articles 7, 8, and 9, Article 11(4) and (5), Article 12, Article 13(5), Articles 15, 16 and 17, Article 18(1), (2), (4) and (5), Article 19(3), Articles 20~~

~~to 27, Article 28(4) and (6), Articles 32 to 35~~ ⇒ Article 1, Article 2, Article 7(1) to (4), Article 11(1), Article 13, Article 14(1) to (7), Article 15(1) to (6), Articles 17 to 21, Article 22(3) to (7), Articles 23 to 36, Article 37(2), Article 38, Article 39, Articles 41 to 43, Article 45(1) to (5), Article 51, and Annexes I to III by [two years after the date of entry into force] ⇐ at the latest ~~not later than 19 July 2010~~. They shall forthwith communicate to the Commission the text of those measures ⇒ and a correlation table between those measures and this Directive. The correlation tables are needed to enable all actors concerned to clearly identify the relevant provisions applicable at national level for the implementation of this Directive. ⇐

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

↓ 2008/57/EC

2. 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.

↓ 2008/57/EC (adapted)

23. The obligation to transpose and implement Article 13, Article 14(1) to (7), Article 15(1) to (6), Articles 17 to 21, Article 42, Article 43, Article 45(1) to (5) and Article 51 ~~Chapters IV, V, VII and VIII~~ of this Directive shall not apply to the Republic of Cyprus and the Republic of Malta for as long as no rail ~~railway~~ system is established within their territory.

↓ 2008/57/EC (adapted)

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

Article ~~5540~~

Repeal

↓ 2008/57/EC (adapted)
⇒ new

Directives ~~96/48/EC and 2001/16/EC~~ 2008/57/EC , as amended by the Directives listed in Annex ~~IVIX~~, Part A, is ~~shall be~~ repealed with effect from ⇒ [two years after the date of entry into force]⇐ ~~19 July 2010~~, without prejudice to the obligations of the Member States

concerning relating to the time limits for the transposition into national law and application of these the Directives set out in Annex ~~IVIX~~, Part B .

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

~~Article 14 of Directive 2004/49/EC shall be repealed with effect from 19 July 2008.~~

Article ~~5641~~

Entry into force

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

↓ new

Articles 3 to 10, Article 11(2), (3) and (4), Article 12, Article 16, shall apply from [two years after the date of entry into force].

↓ 2008/57/EC

Article ~~5742~~

Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

↓ 2008/57/EC (adapted)
⇒ new

ANNEX I

⇒ Elements of Union rail system ⇐ ~~SCOPE~~

~~1. TRANS-EUROPEAN CONVENTIONAL RAIL SYSTEM~~

1.1 Network

~~The network of the trans-European conventional rail system will be that on the conventional lines of the trans-European transport network identified in Decision No 1692/96/EC.~~

For the purposes of this Directive, ~~this~~ the Union's network shall include ~~may~~ be subdivided into the following categories:

- 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, to which the speed must be adapted in each case. This category includes interconnecting lines between high-speed and conventional networks, lines through stations, accesses to terminals, depots, etc. travelled at conventional speed by 'high-speed' rolling stock.
- conventional lines intended for passenger services,
- conventional lines intended for mixed traffic (passengers and freight),
- conventional lines intended ~~specially designed or upgraded~~ for freight services,

↓ 2008/57/EC (adapted)

- passenger hubs,
- freight hubs, including intermodal terminals,
- lines connecting the abovementioned elements.

This network 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.

4.2. Vehicles

↓ 2008/57/EC (adapted)
⇒ new

⇒ For the purposes of this Directive, Union vehicles ~~↔ The trans-European conventional rail system~~ shall comprise all ~~the~~ vehicles likely to travel on all or part of the ~~trans-European conventional rail~~ ⇒ Union's ~~↔~~ network, including:

↓ new

- locomotives and passenger rolling stock, including thermal or electric traction units, self-propelling thermal or electric passenger trains, passenger coaches;
- freight wagons, including vehicles designed to carry lorries;
- special vehicles, such as on track machines.

Each of the above categories may be subdivided into:

- vehicles for international use,
- vehicles for national use.

The TSIs shall specify the requirements to ensure the safe operation of these vehicles on different categories of line.

↓ 2008/57/EC

~~high speed vehicles designed to operate 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,~~

~~high speed vehicles designed to operate at speeds of the order of 200 km/h on specially built or upgraded high speed lines, where compatible with the performance levels of these lines,~~

~~self-propelling thermal or electric trains,~~

~~thermal or electric traction units,~~

~~passenger carriages,~~

~~freight wagons, including vehicles designed to carry lorries.~~

~~Mobile railway infrastructure construction and maintenance equipment may be included.~~

~~Each of the above categories may be subdivided into:~~

~~vehicles for international use,~~

~~vehicles for national use.~~

~~In the case of vehicles designed to operate with a maximum speed lower than 200 km/h and likely to operate on high speed lines, the TSIs shall specify the requirements to ensure the safe operation of these vehicles on high speed lines.~~

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

~~2.1. Network~~

~~The network of the trans-European high speed rail system shall be that of the high speed lines of the trans-European transport network identified in Decision No 1692/96/EC.~~

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

~~2.2. Vehicles~~

~~The trans-European high speed rail system shall comprise vehicles 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 2.1, where compatible with the performance levels of these lines.~~

~~In addition, vehicles designed to operate with a maximum speed lower than 200 km/h which are likely to travel on all or part of the trans-European high speed network, where compatible with the performance levels of this network, shall fulfil the requirements ensuring safe operation on this network. To this end, the TSIs for conventional vehicles shall also specify requirements for safe operation of conventional vehicles on high speed networks.~~

~~3. COMPATIBILITY OF THE RAILWAY SYSTEM~~

~~The quality of rail services in Europe depends, *inter alia*, on excellent compatibility between the characteristics of the network (in the broadest sense, i.e. the fixed parts of all the subsystems concerned) and those of the vehicles (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 network and vehicles~~

~~The scope of the TSIs shall be progressively extended to the whole rail system as referred to in Article 1(4). In order to deliver interoperability cost effectively further subcategories of all categories of network and vehicles 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;~~
- ~~———— benefits to interoperability of an extension of the scope to particular subcategories of networks and vehicles;~~
- ~~———— reduction of capital costs and charges due to economies of scale and better utilisation of vehicles;~~
- ~~———— 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.~~

ANNEX II

SUBSYSTEMS

1. List of subsystems

For the purposes of this Directive, the system constituting the rail system may be broken down into the following subsystems, either:

(a) structural areas:

- infrastructure,
- energy,
- trackside control-command and signalling,
- on-board control-command and signalling,
- rolling stock,

(b) functional areas:

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

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 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 the following:

2.1. Infrastructure

The track, points, engineering structures (bridges, tunnels, etc.), rail-related station components (including entrances, platforms, zones of access, service venues, toilets and information systems, as well as their accessibility features for persons with reduced mobility and persons with disabilities) ~~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, including overhead lines and the trackside of the electricity consumption measuring system.

2.3. Trackside control-command and signalling

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

2.4. On-board control-command and signalling

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

2.5. Operation and traffic management

The procedures and related equipment enabling coherent operation of the various structural subsystems, during both normal and degraded operation, including in particular train composition and train driving, traffic planning and management.

The professional qualifications which may be required for carrying out ⇒ any type of railway service ⇐ ~~cross-border services~~.

2.6. Telematics applications

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

- (a) applications for passenger services, including systems which provide 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.

2.7. Rolling stock

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

2.8. Maintenance

The procedures, associated equipment, logistics centres for maintenance work and reserves providing 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 authorised speed. The parameters of brake equipment must guarantee that it is possible to stop within a given brake distance at the maximum authorised 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 in a foreseeable manner, albeit not in accordance with the posted instructions.

1.2. Reliability and availability

The monitoring and maintenance of fixed or movable components that are involved in train movements must be organised, 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

↓ 2008/57/EC (adapted)

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

↓ 2008/57/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.

1.4.4. Operation of the rail system must respect existing regulations on noise pollution.

1.4.5. Operation of the 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 rail system.

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

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.

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 and viaducts.

2.2. Energy

2.2.1. Safety

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:

- enable trains to achieve the specified performance levels,
- in the case of electricity energy supply systems, be compatible with the collection devices fitted to the trains.

2.3. Control-command and signalling

2.3.1. Safety

The control-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-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-command and signalling systems must be tailored to the use of those systems.

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

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-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.

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-command and signalling installations.

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 rail system.

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, taking account of relevant climatic conditions.

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.

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.

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

The maintenance installations for 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.

2.6. Operation and traffic management

2.6.1. Safety

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 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

~~'EC' DECLARATION OF CONFORMITY AND SUITABILITY FOR USE OF INTEROPERABILITY CONSTITUENTS~~

~~1. INTEROPERABILITY CONSTITUENTS~~

~~The 'EC' declaration applies to the interoperability constituents involved in the interoperability of the rail system, as referred to in Article 3. These interoperability constituents may be:~~

~~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/judgment 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 and 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 authorised 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);~~
- ~~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.~~

~~ANNEX V~~

~~**DECLARATION OF VERIFICATION OF SUBSYSTEMS**~~

~~**1. 'EC' declaration of verification of subsystems**~~

~~The 'EC' declaration of verification and the accompanying documents must be dated and signed.~~

~~The said declaration must be based on the information resulting from the 'EC' verification procedure for subsystems as defined in Section 2 of Annex VI. It must be written in the same language as the technical file and must contain at least the following:~~

- ~~— the Directive references;~~
- ~~— name and address of the contracting entity or the manufacturer, or its authorised representative established within the Union (specify the trade name and full address; in the case of the authorised representative, specify also the trade name of the contracting entity or the manufacturer);~~

- ~~— 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 final 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.~~

~~Where reference is made in Annex VI to the 'EC' ISV declaration, the provisions of this Section shall apply to this declaration.~~

~~**2. Declaration of verification of subsystems in the case of national rules**~~

~~Where reference is made in Annex VI to the declaration of verification of subsystems in the case of national rules, the provisions of Section 1 shall apply *mutatis mutandis* to that declaration.~~

~~ANNEX VI~~

~~VERIFICATION PROCEDURE FOR SUBSYSTEMS~~

~~1. GENERAL PRINCIPLES~~

~~The verification procedure for a subsystem involves checking and certifying that a subsystem:~~
~~is designed, constructed and installed in such a way as to meet the essential requirements concerning it, and~~
~~may be authorised to be placed in service.~~

~~2. 'EC' VERIFICATION PROCEDURE~~

~~2.1. Introduction~~

~~'EC' verification is the procedure whereby a notified body checks and certifies that the subsystem:~~

- ~~complies with the relevant TSI(s),~~
- ~~complies with the other regulations deriving from the Treaty.~~

~~2.2. Parts of the subsystem and stages~~

~~2.2.1 Intermediate statement of verification (ISV)~~

~~If specified in the TSIs or, where appropriate, at the applicant's request, the subsystem could be divided into certain parts or checked at certain stages of the verification procedure.~~

~~The intermediate statement of verification (ISV) is the procedure whereby a notified body checks and certifies certain parts of the subsystem or certain stages of the verification procedure.~~

~~Each ISV leads to the issuing of an 'EC' ISV certificate by the notified body chosen by the applicant, which in turn, where applicable, draws up an 'EC' ISV declaration. The ISV certificate and ISV declaration must provide reference to the TSIs with which the conformity has been assessed.~~

~~2.2.2 Parts of the subsystem~~

~~The applicant may apply for an ISV for each part. And each part shall be checked at each stage as described in Section 2.2.3.~~

~~2.2.3 Stages of the verification procedure~~

~~The subsystem, or certain parts of the subsystem, shall be checked at each of the following stages:~~

- ~~———— overall design,~~
- ~~———— production: construction, including, in particular, civil engineering activities, manufacturing, constituent assembly and overall adjustment,~~
- ~~———— final testing.~~

~~The applicant may apply for an ISV for the design stage (including the type tests) and for the production stage.~~

~~2.3. Certificate of verification~~

~~2.3.1. The notified body responsible for ‘EC’ verification assesses the design, production and final testing of the subsystem and draws up the ‘EC’ certificate of verification intended for the applicant, who in turn draws up the ‘EC’ declaration of verification. The ‘EC’ verification certificate must provide reference to the TSIs with which the conformity has been assessed.~~

~~Where a subsystem has not been assessed for its conformity with all relevant TSI(s) (e.g. in the case of a derogation, partial application of TSIs for upgrade or renewal, transitional period in a TSI or specific case), the ‘EC’ certificate shall give the precise reference to the TSI(s) or their parts whose conformity has not been examined by the notified body during the ‘EC’ verification procedure.~~

~~2.3.2. Where ‘EC’ ISV certificates have been issued the notified body responsible for the ‘EC’ verification of the subsystem takes these ‘EC’ ISV certificates into account, and, before issuing the ‘EC’ certificate of verification, it:~~

- ~~———— verifies that the ‘EC’ ISV certificates cover correctly the relevant requirements of the TSI(s),~~
- ~~———— checks all aspects that are not covered by the ‘EC’ ISV certificate(s), and~~
- ~~———— checks the final testing of the subsystem as a whole.~~

~~2.4. Technical file~~

~~The technical file accompanying the ‘EC’ declaration of verification must contain the following:~~

- ~~———— technical characteristics linked to the design including general and detailed drawings with respect to execution, electrical and hydraulic diagrams, control circuit diagrams, description of data processing and automatic systems, documentation on operation and maintenance, etc., relevant for the subsystem concerned,~~
- ~~———— list of interoperability constituents, as referred to in Article 5(3)(d), 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;~~
- ~~where available, the 'EC' ISV certificate(s) and, in such a case, where relevant, the 'EC' ISV declaration(s), that accompany the 'EC' certificate of verification, including the result of verification by the notified body of the certificates validity;~~
- ~~'EC' certificate of verification, accompanied by corresponding calculation notes and signed by the notified body responsible for the 'EC' verification, stating that the subsystem complies with the requirements of the relevant TSI(s) and mentioning any reservations recorded during performance of the activities and not withdrawn; the 'EC' certificate of verification 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 2.5.3 and 2.5.4;~~
- ~~'EC' certificates issued in accordance with other legislation deriving from the Treaty;~~
- ~~when safe integration is required pursuant Commission Regulation (EC) No 352/2009³¹, the applicant shall include in the technical file the assessor's report on the Common Safety Methods (CSM) on risk assessment referred to in Article 6(3) of Directive 2004/49/EC.~~

~~2.5. Monitoring~~

~~2.5.1. The aim of 'EC' monitoring is to ensure that the obligations deriving from the technical file have been met during the production of the subsystem.~~

~~2.5.2. 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 notified body must receive from the applicant all the documents needed for that purpose and, in particular, the implementation plans and technical documentation concerning the subsystem.~~

~~2.5.3. The notified body responsible for checking implementation must periodically carry out audits in order to confirm compliance with the relevant TSI(s). It must provide those responsible for implementation with an audit report. Its presence may be required at certain stages of the building operations.~~

~~2.5.4. 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.~~

~~2.5.5. With a view to delivering the 'EC' declaration of suitability for use referred to in Section 2 of Annex IV, the notified body shall be able to monitor a subsystem on which an~~

³¹ OJL 108, 22.4.2009, p 4.

~~interoperability constituent is mounted in order to assess, where required by the corresponding TSI so requires, its suitability for use in its intended railway environment.~~

~~2.6. Submission~~

~~The complete file referred to in paragraph 2.4 must be lodged with the applicant in support of the 'EC' ISV certificate(s), if available, issued by the notified body responsible for this or in support of the certificate of verification issued by the notified body responsible for 'EC' verification of the subsystem. The file must be attached to the 'EC' declaration of verification which the applicant sends to the competent authority with which he lodges the application for authorisation for placing in service.~~

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

~~2.7. Publication~~

~~Each notified body must periodically publish relevant information concerning:~~

- ~~— requests for 'EC' verification and ISV received;~~
- ~~— request for assessment of conformity and/or suitability for use of ICs;~~
- ~~— 'EC' ISV certificates issued or refused;~~
- ~~— 'EC' certificates of conformity and/or suitability for use issued or refused;~~
- ~~— 'EC' certificates of verification issued or refused.~~

~~2.8. Language~~

~~The files and correspondence relating to the 'EC' verification procedures must be written in an EU official language of the Member State in which the applicant is established or in an EU official language accepted by the applicant.~~

~~3. VERIFICATION PROCEDURE IN THE CASE OF NATIONAL RULES~~

~~3.1. Introduction~~

~~The verification procedure in the case of national rules is the procedure whereby the body designated pursuant to Article 17(3) (the designated body) checks and certifies that the subsystem complies with the national rules notified in accordance with Article 17(3).~~

~~3.2. Certificate of verification~~

~~The designated body responsible for the verification procedure in the case of national rules draws up the certificate of verification intended for the applicant.~~

~~The certificate shall contain a precise reference to the national rule(s) whose conformity has been examined by the designated body in the verification process, including those related to parts subject to derogation from a TSI, upgrade or renewal.~~

~~In the case of national rules related to the subsystems composing a vehicle, the designated body shall divide the certificate into two parts, one part including the references to those national rules strictly related to the technical compatibility between the vehicle and the network concerned, and the other part for all other national rules.~~

~~3.3. Technical file~~

~~The technical file accompanying the certificate of verification in the case of national rules must be included in the technical file referred to in point 2.4 and shall contain the technical data relevant for the assessment of the conformity of the sub-system with the national rules.~~

ANNEX VII

~~PARAMETERS TO BE CHECKED IN CONJUNCTION WITH THE PLACING IN SERVICE OF NON-TSI CONFORM VEHICLES AND THE CLASSIFICATION OF THE NATIONAL RULES~~

1. List of parameters

~~1.1. General documentation~~

~~General documentation (including description of new, renewed or upgraded vehicle and its intended use, design, repair, operation and maintenance information, technical file, etc.)~~

~~1.2. Structure and mechanical parts~~

~~Mechanical integrity and interface between vehicles (including draw and buffer gear, gangways), strength of vehicle structure and fittings (e.g. seats), loading capability, passive safety (including interior and exterior crashworthiness)~~

~~1.3. Track interaction and gauging~~

~~Mechanical interfaces to the infrastructure (including static and dynamic behaviour, clearances and fits, gauge, running gear, etc.)~~

~~1.4. Braking equipment~~

~~Braking related items (including wheel slide protection, braking control, and braking performance in service, emergency and parking modes)~~

~~1.5. Passenger related items~~

~~Passenger facilities and passenger environment (including passenger windows and doors, requirements for persons with reduced mobility, etc.)~~

~~1.6. Environmental conditions and aerodynamic effects~~

~~Impact of the environment on the vehicle and impact of the vehicle on the environment (including aerodynamic conditions and both the interface between the vehicle and the trackside part of the railway system and the interface with the external environment)~~

~~1.7. External warning, marking, functions and software integrity requirements~~

~~External warnings, markings, functions and integrity of software, e.g. safety related functions with an impact on train behaviour including train bus~~

~~1.8. Onboard power supply and control systems~~

~~*Onboard propulsion, power and control systems, plus the interface of the vehicle with the power supply infrastructure and all aspects of electromagnetic compatibility*~~

~~1.9. Staff facilities, interfaces and environment~~

~~*Onboard facilities, interfaces, working conditions and environment for staff (including drivers cabs, driver machine interface)*~~

~~1.10. Fire safety and evacuation~~

~~1.11. Servicing~~

~~*Onboard facilities and interfaces for servicing*~~

~~1.12. Onboard control, command and signalling~~

~~*All the onboard equipment necessary to ensure safety and to command and control movements of trains authorised to travel on the network and its effects on the trackside part of the railway system*~~

~~1.13. Specific operational requirements~~

~~*Specific operational requirements for vehicles (including degraded mode, vehicle recovery etc.)*~~

~~1.14. Freight related items~~

~~*Freight specific requirements and environment (including facilities specifically required for dangerous goods)*~~

~~Explanations and examples *in italics* above are for information only and are not definitions of the parameters.~~

↓ 2008/57/EC

~~**2. Classification of the rules**~~

~~The national rules relating to the parameters identified in section 1 shall be attributed to one of the following three groups. Rules and restrictions of a strictly local nature are not involved; their verification involves checks to be put in place by mutual agreement between the railway undertakings and the infrastructure managers.~~

~~*Group A*~~

~~Group A covers:~~

~~international standards;~~

~~national rules deemed to be equivalent, in railway safety terms, to national rules of other Member States.~~

~~Group B~~

~~Group B covers all rules that do not fall within the scope of Group A or Group C, or that it has not yet been possible to classify in one of these groups.~~

~~Group C~~

~~Group C covers rules that are strictly necessary and are associated with technical infrastructure characteristics, in order to ensure safe and interoperable use in the network concerned (e.g. the loading gauge).~~

ANNEX VIII

~~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 authorised 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 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 judgment or the results of their inspection, in particular from persons or groups of persons affected by the results of the checks.~~

~~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 Directive 95/18/EC and safety certificates in the framework of Directive 2004/49/EC, and of the bodies in charge of investigations in the event of accidents.~~

~~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.~~

~~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 and accident investigation bodies in the State where they perform those activities as well as accident investigation bodies responsible for the investigation of accidents caused by the failure of the interoperability constituents or subsystems checked) in pursuance of this Directive or any provision of national law implementing the Directive.~~

~~ANNEX IX~~

~~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(1)(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 IV

PART A

☒ Repealed ☒ Directives

☒ with list of the successive amendments thereto ☒

(referred to in Article 5540)

Directive 96/48/EC ☒ 2008/57/EC ☒	☒ (OJ L 191, 18.7.2008, p.1.) ☒
Directive 2001/16/EC ☒ 2009/131/EC ☒	☒ (OJ L 273, 17.10.2009, p.12.) ☒
Directive 2004/49/EC ☒ 2011/18/EU ☒	Only Article 14 ☒ (OJ L 57, 2.3.2011, p.21.) ☒

PART B

Time limits for transposition into national law

(referred to in Article 5540)

Directive	Deadline for transposition
96/48/EC ☒ 2008/57/ EC ☒	9 April 1999 ☒ 19 July 2010 ☒
2001/16/EC ☒ 2009/131 /EC ☒	20 April 2003 ☒ 19 July 2010 ☒
2004/49/EC ☒ 2011/18/ EU ☒	30 April 2006 ☒ 31 December 2011 ☒

ANNEX XI

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 1(4)
Article 2, introductory wording	Article 2, introductory wording	Article 2, introductory wording
Article 2(a) to (l)	Article 2(a) to (l)	Article 2(a) to (b) and (e) to (m)
—	—	Article 2(c) and (d)
Article 2(n)	Article 2(m)	Article 2(n)
Article 2(o)	Article 2(n)	Article 2(o)
Article 2(m)	Article 2(o)	Article 2(p)
Article 2(p)	Article 2(p)	Article 2(q)
—	—	Article 2(r) to (z)
Articles 3, 4 and 5	Articles 3, 4 and 5	Articles 3, 4 and 5(1) to (5)
Article 5(6)	Article 5(7)	Article 5(7)
—	—	Article 5(6)
—	—	Article 5(8)
Article 6(1) to (8)	Article 6(1) to (8)	Article 6(1) to (8)
—	—	Article 6(9) to (10)
—	—	Articles 7 and 8
Article 7	Article 7	Article 9
Article 8	Article 8	Article 10(1)

Article 9	Article 9	Article 10(2)
Article 10(1) to (3)	Article 10(1) to (3)	Article 11(1) to (3)
—	Article 10(6)	Article 11(4)
—	—	Article 11(5)
Articles 11 to 13	Articles 11 to 13	Articles 12 to 14
Article 14(1) and (2)	Article 14(1) and (2)	Article 15(1) and (2)
Article 14(3)	Article 14(3)	Article 20
Article 14(4) and (5)	Article 14(4) and (5)	Article 33
—	—	Article 15(2) and (3)
Articles 15 and 16	Articles 15 and 16	Articles 16 and 17
Article 16(3)	Article 16(3)	Article 17(3)
—	—	—
Article 18(1) to (3)	Article 18(1) to (3)	Article 18(1) to (3)
—	—	Article 18(4) and (5)
Article 19	Article 19	Article 19
Article 20	Article 20	Article 28
—	—	Articles 21 to 27
Article 21(1) to (3)	Article 21(1) to (3)	Article 29(1) to (3)
—	—	Article 29(4) and (5)
—	—	—
Article 21a(1)	Article 22	Article 30(2)
Article 21(4)	21(4)	Article 30(4)
Article 21a(2)	Article 21a	Article 30(1)
Article 21b	—	—
Article 21e	Article 21b	Article 30(3)
Article 22	Article 26	Article 37
Article 22a	Article 24	Articles 34 and 35

—	—	Article 32
—	Article 23	Article 31
—	Article 25	Article 36
Article 23	Article 27	Article 38
Article 24	Article 28	Article 39
—	—	Article 40
Article 25	Article 29	Article 41
Article 26	Article 30	Article 42
Annexes I to VI	Annexes I to VI	Annexes I to VI
—	—	Annex VII
Annex VII	Annex VII	Annex VIII
—	—	Annexes IX to XI



ANNEX V

CORRELATION TABLE

Directive 2008/57/EC	This Directive
Article 1	Article 1
Article 2(a) to (z)	Article 2(1) to (24)
-----	Article 2(25) to (41)
Article 3	-----
Article 4	Article 3
Article 5(1) to (3)(g)	Article 4(1) to (3)(g)
-----	Article 4(3)(h) and (i)

Article 5(4) to (8)	Article 4(4) to (8)
Article 6	Article 5
Article 7	Article 6
Article 8	-----
Article 9	Article 7
Article 10	Article 8
Article 11	Article 9
Article 12	-----
Article 13	Article 10
Article 14	Article 11
Article 15(1)	Articles 18(3) and 19(2)
Article 15(2) and (3)	-----
Article 16	Article 12
Article 17	Articles 13 and 14
Article 18	Article 15
Article 19	Article 16
-----	Article 17
-----	Article 18 (except 18(3))
-----	Articles 19 and 20
Article 20	-----
Article 21	Article 21

Articles 22 to 25	-----
Article 26	Article 22
Article 27	Article 14(8)
Article 28 and Annex VIII	Articles 23 to 41
Article 29	Article 48
Articles 30 and 31	-----
Article 32	Article 42
Article 33	Article 43
Article 34	Article 44
Article 35	Article 45
Article 36	-----
-----	Article 46 and 47
Article 37	Article 49
Article 38	Article 54
Article 39	Article 50
-----	Articles 51 and 52
-----	Article 53
Article 40	Article 55
Article 41	Article 56
Article 42	Article 57
Annex I to III	Annex I to III

Annex IV	Article 8(2)
Annexes V and VI	Article 15(7)
Annex VII	Article 14(8)
Annex VIII	Articles 27, 28 and 29
Annex IX	Article 7(3)
Annex X	Annex IV
Annex XI	Annex V