

COTER/008

Brussels, 23 October 2002

**OPINION**

of the Committee of the Regions

of 10 October 2002

on the

**Communication from the Commission to the Council and the European Parliament:**

**Towards an integrated European railway area**

(COM(2002) 18 final)

**Proposal for a Directive of the European Parliament and of the Council on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification**

(COM(2002) 21 final – 2002/0022 (COD)),

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

(COM(2002) 22 final – 2002/0023 (COD)),

**Proposal for a Directive of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways**

(COM(2002) 25 final – 2002/0025 (COD))

**Proposal for a Regulation of the European Parliament and of the Council**

**establishing a European Railway Agency**

(COM(2002) 23 final – 2002/0024 (COD))

**Recommendation for a Council Decision authorising the Commission to negotiate the conditions for Community accession to the Convention concerning International Carriage by Rail (COTIF) of 9 May 1980, as amended by the Vilnius Protocol of 3 June 1999**

(COM(2002) 24 final)

Rapporteurs: **Mr Bernard Soulage** (F/PES) Member of the Regional Council for Rhône-Alpes

**Mrs Flo Clucas (UK/ELDR) Liverpool City Council**

The Committee of the Regions,

**HAVING REGARD TO** the Communication from the Commission to the Council and the European Parliament: *Towards an integrated European area* (COM(2002) 18 final);

**HAVING REGARD TO** the proposals for Directives on *safety on the Community's railways*, (COM(2002) 21 final – 2002/0022 (COD)), *the interoperability of the trans-European rail system* (COM(2002) 22 final – 2002/0023 (COD)), amending Council Directive 91/440/EEC on the *development of the Community's railways* (COM(2002) 25 final – 2002/0025 (COD));

**HAVING REGARD TO** the proposal for a Regulation of the European Parliament and of the Council establishing a European Railway Agency (COM(2002) 23 final – 2002/0024 (COD));

**HAVING REGARD TO** the Recommendation for a Council Decision on *negotiating the conditions for Community accession to the Convention concerning International Carriage by Rail* (COTIF) (COM(2002) 24 final);

**HAVING REGARD TO** the Commission Decision of 24 January 2002 and the Council Decision of 21 and 22 February 2002, to request the Committee of the Regions' opinion on this subject under Article 265 (1) and Article 71 of the Treaty establishing the European Community;

**HAVING REGARD TO** its Bureau's decision of 6 February and 12 March 2002, to entrust the Commission for Territorial Cohesion Policy with the task of drawing up the relevant opinion;

**HAVING REGARD TO** its earlier Opinion on the *Proposal for a Directive of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system* (COM(1999) 617 final – 1999/0252 COD) (CdR 94/2000 fin)<sup>1</sup>;

**HAVING REGARD TO** its earlier Opinion on the White Paper – European transport policy for 2010: time to decide (COM(2001) 370 final) (CdR 54/2001 fin)<sup>2</sup>;

**HAVING REGARD TO** its earlier opinion on the Proposal for a Regulation of the European Parliament and of the Council on the granting of Community financial assistance to improve the environmental performance of the freight transport system (COM(2002) 54 final – 2002/0038 (COD)) (CdR 103/2002 fin);

**HAVING REGARD TO** the Draft Opinion adopted by the Commission for Territorial Cohesion Policy on 24 June 2002 (CdR 97/2002 rev. 1) (rapporteurs: **Mr Soulage** –F/PES, Member of the Regional Council of Rhône-Alpes, and **Mrs Clucas** – UK/ELDR, Liverpool City Council);

**adopted the following opinion at its 46th plenary session (meeting of 10 October 2002)**

**1. General comments**

1. The Committee of the Regions is pleased to see the efforts made to promote and implement an integrated European railway area – a necessary precondition for renewing the dynamism of a transport mode which is essential in terms of a sustainable transport policy in the European Union, as described in the White Paper.

2. As regards the future measures planned to reinvigorate the rail market, presented in the second part of the Communication *Towards an integrated European railway area*, the Committee of the Regions shares the Commission's views on the need to improve the quality of service provided by rail freight enterprises, particularly through transport contracts which pay more attention to customers' expectations, through incentives and through penalties for poor quality service. However, while price, speed and quality are unavoidable factors in making railways more attractive, the Committee of the Regions stresses the need for an overall approach to all transport modes, in order to formulate a consistent, complete framework for organisation, regulation and pricing of freight transport, which may serve, above all, to promote the attractiveness of rail, inland waterway and short sea shipping transport, as well as combined transport.
3. Such an approach makes it necessary to consider the transport chain as a whole, from point of origin to final destination, paying particular attention to the level of service provided throughout the journey, through the multimodal platforms for loading and final distribution, but also to the accessibility from peripheral regions to main rail routes, eliminating bottlenecks. There are regional concerns over heavy traffic in transit corridors such as mountainous areas, urban areas and environmentally sensitive areas.

In this respect, it can be very helpful to set up interregional cooperations for each corridor, who could manage the removal of bottlenecks in a unitary way, directly involving local populations, carrying out the necessary infrastructure work directly, and starting with the main railway line, in preparation for initiatives designed to link up with national rail networks.

4. However, it is important that the priority allocation of train paths to long-distance rail freight should remain compatible with two goals: that of reducing the overall journey time of the freight services concerned, and that of increasing the attractiveness of passenger rail services, particularly those serving large conurbations. Effective use of the train paths available presupposes a harmonisation of speeds, together with an effort to detect all sources of immobilisation (shunting and marshalling operations, etc.). That is why the Committee of the Regions reaffirms its support for the priority given to the implementation of the Trans-European Rail Freight Network – the backbone of an integrated system based on the quality of service provided.
5. The COR notes that the share of rail freight has declined as the needs of freight customers for higher quality, more timely deliveries, etc have increased. It is the view of the CoR that measures to improve the quality of service delivered by railway undertakings are paramount and that without such accompanying measures rail freight will continue to decline.
6. The essential requirements as regards the areas crossed - and also with a view to boosting rail's share of the transport market - are improvement of the environmental performance of this mode of transport (noise and atmospheric pollution) and the maintenance of a high standard of safety. The Committee of the Regions will be particularly attentive to these aspects, which are of direct concern to local people and local authorities, encouraging the direct participation of those authorities in interregional cooperations that deal with these issues at first hand.
7. In the field of international passenger transport, the development of high-speed services connecting the regions is an initiative to be encouraged with a view to sustainable development; however, this must be part of a scheme providing the regions with a high quality service based on the timetable frequencies.

8. It is also necessary to encourage the development of cross-frontier services for the commuter market, which is far from negligible. It must be made easier for the regions concerned to reach agreements with one another to guarantee a high level of quality and the viability of services.
9. The Committee of the Regions welcomes the proposals for mutual recognition of training of railways staff, without which the Committee of the Regions does not believe that a true EU wide railways system can be developed. It is noted, however, that Article 12 of the proposed Safety Directive does not set specific requirements for language training or competency for safety critical or front line staff operating international train services.
10. The Committee of the Regions would like to see further proposals from the Commission for specific training and certification of competency in appropriate languages for safety critical and front line staff involved in operation of international rail services.
11. The Committee of the Regions welcomes the need to reinforce the investment in the railways across the EU, but wishes to emphasise that particular regard has to be given to the economic, social and territorial cohesion of such investment. The Committee of the Regions wishes to emphasise that the development of the Union's rail infrastructure should benefit in particular lagging and peripheral regions, while having regard to EU competition and state aids rules. Investment which would further concentrate economic development in the heart of Europe would not be acceptable to the Committee of the Regions.
12. The Committee of the Regions notes the importance of high quality rail services to the protection of the environment, especially in mountainous regions and other regions of outstanding natural beauty. It calls on the Commission to produce proposals for infrastructure charging for both rail and road which properly take into account the environmental impacts of each mode, with a view to reducing the overall level of noise and adverse environmental impacts from transport, and encouraging the electrification of railways serving environmentally sensitive regions so that the use of electric traction can be maximised for traffic flows through these regions.
13. In connection with the proposals for infrastructure charging, the Committee of the Regions does, however, also expect that the impact which the imposition of varying levels of charges on users would have on transport prices and consequently on the competitiveness of EU-based enterprises will be carefully analysed and that an appropriate framework for ensuring fair territorial conditions of competition will be established as quickly as possible.

## 2. **Comments on the various proposals**

### 1. **Rail transport safety**

1. While the Committee of the Regions welcomes the move to improve safety on the EU railways, the Committee of the Regions would wish to emphasise that such a system should not lead to minimum standards, acceptable to all member states. The Committee strongly supports moves to improve and the setting of challenging safety standards to ensure that EU citizens and SMEs can have confidence in the EU railways systems.
2. The Committee of the Regions agrees there is a need to harmonise safety

regulations for the whole of the European Union, with a view to a gradual opening-up of rail networks to a number of operators for international freight services.

3. The definition of common standards, the clear allocation of powers and responsibilities to governments, infrastructure managers and rail operators, and transparency as regards the standards required and the capabilities of operators, are essential factors for ensuring a high level of safety in this transport mode.
4. The creation of national safety authorities to regulate and monitor safety, and their coordination at European level, are steps in the right direction. While in the longer term it is desirable to establish a single Community safety certificate, it is important to ensure that in this transitional phase the national certificates issued by each government guarantee that national rules are respected, that rolling stock conforms to standards and that staff holding the certificate are competent.
5. The Committee of the Regions wishes to draw the attention of the Commission to the problems in terms of safety, negative impact on passengers and lack of clear accountabilities which could result from the privatisation and subsequent fragmentation of the rail industry, as recently experienced in the UK.
6. With a view to protecting areas and the people living in them, the Committee of the Regions trusts that the local and regional authorities, which are responsible for local policies on transport and land-use, will be fully associated with the definition of common safety targets (CST), with regard to the exposure of inhabitants to risks inherent in rail freight traffic, particularly as regards journeys through sensitive or densely populated areas, and for sections of rail networks where passenger trains operate.
7. The Committee of the Regions welcomes the proposals set out in Chapter V of the Safety Directive for independent investigations of accidents and incidents on the railways. The Committee of the Regions agrees strongly with the statement that such investigations shall in no case be concerned with apportioning blame or liability.
8. The Committee of the Regions is strongly of the view that factual investigation of an accident should not be hindered or delayed by judicial proceedings, to ensure any safety issues arising from this factual investigation can be considered and recommendations implemented as soon as reasonably practicable. Indeed, the Committee of the Regions is of the view that there must be two separate processes, i.e. a factual investigation of the cause of the accident, which would make appropriate recommendations to prevent or mitigate future occurrences, and, where necessary, a judicial process to apportion criminal liability.
9. It is therefore desirable, when drawing up the CST and the common safety methods (CSM) relating to risks to the community, that there should be a clear statement that local and regional authorities are associated with drawing up the national targets and methods, which fall within the scope of national safety authorities.
10. It is also important for the draft directive to state clearly that the local and regional authorities concerned (on an equal footing with the other actors concerned) must receive information on the surveys and the results. Similarly, it must be possible for them to participate in the work involved in these surveys if

they so desire.

## 2. Interoperability of networks

1. The Committee of the Regions agrees that the lack of interoperability of the Union's railways is a major impediment to the further development of a truly European railway system. The provisions for mutual rolling stock safety certification are welcomed, as is the current trend towards purchasing standardised designs of rolling stock capable of operation across national borders where loading and track gauge constraints permit. While awaiting the adoption of the various Technical Specifications for Interoperability (TSI), attention must be given to mutual recognition procedures between Member States to avoid dysfunctions which can prejudice the safety of traffic, particularly in the case of mixed traffic (passengers and freight).
2. The Committee of the Regions welcomes the current moves to work proactively with the candidate countries and beyond to achieve interoperability.
3. The Committee of the Regions approves the guidelines proposed for defining the TSI, and the establishment of a system for the registering of infrastructure and rolling stock, which is necessary for greater transparency.
4. The Committee of the Regions also takes the view that the adoption of the TSI is likely to harmonise the supply of rolling stock, and hence to broaden the choice of supplies and increase the size of production runs; this would encourage a reduction in the price of rolling stock, thereby improving the productivity of the sector.
5. The CoR is, however, concerned at the absence of a clear, realistic timetable for adoption and implementation of the TSI, particularly with a view to extending the TSI to the entire conventional network. Article 2 of the draft directive on interoperability proposes the amendment of Article 1 of Directive 2001/16/EC by adding a paragraph which would introduce such an extension with effect from 1 January 2008.
6. Local and regional authorities are often associated with the funding of infrastructure and rolling stock, including on the conventional network, and it is important to assess the cost of technical standardisation, both in terms of interoperability and in terms of safety. In particular, it is important that this financial burden should not be such as to jeopardise the priorities laid down earlier, particularly in terms of overcoming bottlenecks and of creating access links with the trans-European freight network for peripheral regions. The Committee of the Regions hopes that a prior study will be made of the financial impact of such an extension to the conventional network, so as to define realistic priorities for generalising interoperability. It must be borne in mind that, because of the mixture of passenger and freight traffic on railway networks, the application of TSI will equally concern national and regional passenger transport, and will therefore involve upgrading the rolling stock concerned.
7. Although the draft directive stipulates that taking the TSIs into account applies in the first place only to new infrastructure (including repair and maintenance work) and to the acquisition of new equipment, the real opening up of the conventional network will be effective only when the technical standardisation of infrastructure and rolling stock has been carried out. Given the present pace of

renewal and works, the suggested acceleration of the timetable laid down at the time of the first rail package does not seem advisable.

8. Adoption of the TSIs is thus a precondition for ensuring that the adaptation of rolling stock (or the replacement of older rolling stock) is in line with the new interoperability rules. Similarly, a reasonable timescale, of the order of five years, must be provided for the planning of the necessary investment, which can be a particularly heavy burden for certain regions.

### 3. **Establishing a European Railway Agency**

1. The Committee of the Regions endorses the establishment of a technical agency responsible for helping the Commission and the Member States to harmonise the rules on safety and interoperability of the networks, with a view to creating a truly integrated railway area in Europe.
2. It is, however, necessary to ensure that the resources available to this agency would be commensurate with the tasks entrusted to it, and that its power of investigation would be compatible with the laws of the various Member States.
3. The Committee of the Regions recommends that the European Railway Agency be remitted to ensure that liberalisation should not lead to a reduction in safety expenditure or in investment in fixed infrastructure on the rail network, and is applied in a way which maintains the full range of network benefits for passengers and freight customers.
4. The Committee of the Regions notes with concern the impact on Channel Tunnel freight traffic of the failure by the French and UK governments to prevent asylum seekers attempting to reach the UK through the Channel Tunnel, which has led to a significant reduction in the number of cross channel freight services.
5. In view of likely increases in asylum seekers and increased labour mobility from within the EU, the Committee of the Regions would wish to see an examination of the need for an international group of experts, possibly within the proposed European Railway Agency, to examine security issues and common policing methods across the Union's railways as is the case for aviation.
6. The Committee of the Regions would like to see further proposals from the Commission regarding the role of the proposed European Railway Agency in relation to independent investigations into serious and fatal accidents, with a view to ensuring that a common database of recommendations are held at the European level. Also, the Committee of the Regions would expect further proposals from the Commission regarding whether recommendations from independent investigations should be implemented across the Union.

### 4. **Community accession to the Convention concerning International Carriage by Rail (COTIF)**

1. The Committee of the Regions endorses the recommendation for a Council decision authorising the Commission to negotiate the conditions for accession to the COTIF, although the Community's accession would depend on the entry into force of the Vilnius Protocol.

## 5. **Amendment of Directive 91/440/EC on the development of the Community's railways**

1. The Committee of the Regions notes the desire on the part of the Commission and the Parliament to speed up the process of opening up the rail freight market (including the national market) throughout the conventional network, thereby casting doubt on the timetable negotiated when the first rail package was adopted, and on the definition of the trans-European rail freight network, even before the planned assessment of the impact of this first major reform takes place, and when the 2001 directives have not been fully transposed into national law.
2. The Committee of the Regions takes the view that there is no urgent need to change the priorities established earlier: on the one hand, these do not prevent countries from opening up the rail freight market if they so desire, and their networks could be rapidly brought in line with the TSIs; on the other, they allow a realistic adaptation period for traditional operators in certain Member States. The arrangements put in place by the first rail package authorise each state to decide on the opening up of its national freight market in accordance with its internal situation and the prospects for development of rail freight. Earlier opening up of the national markets would tend in some cases to weaken the financial situation of the traditional operators now involved in comprehensive restructuring, and this would have a negative impact on jobs.
3. The Committee of the Regions points out that the promotion of rail freight is part of an overall approach in which the various measures, particularly those specified in the "Marco Polo" programme, must be taken together, whether they concern the charges for using road and rail infrastructure, harmonisation of and respect for social legislation, the implementation of interoperability and of common safety rules, or overcoming the capacity constraints and access problems of peripheral regions. An early, generalised opening up of national freight markets independently of the other conditions mentioned above is not likely to improve the competitiveness of rail in relation to other transport modes, and could lead to a process whereby traditional operators are replaced by new ones on the more profitable markets, thus weakening the former, although certain aspects of it could be positive (e.g. the development of small local operators at regional level). However, this trend could strengthen the discrimination against the weaker regions in terms of access to efficient services.
4. Consequently, the Committee of the Regions is not in favour of changing the timetable laid down when the first rail package was adopted, and thinks it preferable to concentrate on the implementation of the trans-European international freight network as originally defined.
5. The Committee of the Regions thinks it preferable for the timetable for implementing this directive to respect the original provisions, i.e. for it to depend on approval of the Commission report assessing the application of the earlier directives (report to be published by 15 March 2005 under Article 14 of Directive 91/440/EC).

### 3. **Proposed changes**



The Committee of the Regions therefore proposes the following changes :

1. **to the draft directive on rail safety**

1. Add to Article 4(1) :

*"For the drawing up of national safety rules covering risks to the community, the local and regional authorities concerned shall be associated with defining the objectives and methods for which national safety authorities are responsible."*

2. Modify Article 12(1) as follows:

*"Train drivers, **safety critical staff** and staff accompanying the trains of a ..."*

3. Modify Article 12 (2, first and second sentence) as follows:

*"Member States shall ensure that railway undertakings applying for a safety certificate have fair and non-discriminatory access to training facilities for train drivers, **safety critical staff**, and staff accompanying the trains ..."*

and

*"The services offered must include necessary route knowledge, operating rules, the signalling and control command system ~~and~~, **safety and** emergency procedures applied, **and relevant languages** on the routes operated."*

4. Modify Article 21(3) as follows :

*"3. The investigation shall be accomplished under as much openness as possible, allowing for all parties to be heard and sharing the results. The relevant infrastructure manager and railway undertakings, the safety authority, **the local and regional authorities concerned**, victims and their relatives, owners of damaged property, manufacturers, the emergency services involved and representatives of staff and users shall be informed of the investigation and its results and be given, as far as practicable, the opportunity to take part in the proceedings."*

2. **to the draft directive on interoperability**

1. Modify Article 2(2) as follows :

*"2) The following paragraph 3 is inserted in Article 1:*

*'3. Five years after the adoption of all the TSIs, and by 1 January 2010 at the latest, the scope of this Directive shall be extended to the whole rail system, except for infrastructure and rolling stock reserved for a strictly local, historical or touristic use and isolated from the rest of the rail system.'* "

3. **to the draft amendment to Directive 91/440**

1. Modify Article 2(1) as follows:

*"Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive at the latest **18 months after the adoption of the Commission report assessing the application of the earlier directives under Article 14 of Directive 91/440/EC.** They shall forthwith inform the Commission thereof."*

Brussels, 10 October 2002

The President

The Secretary-General

of the

of the

Committee of the Regions

Committee of the Regions

**Albert Bore**

**Vincenzo Falcone**

<sup>1</sup> OJ C 317 of 6.11.2000, p.22

<sup>2</sup> OJ C 107 of 3.5.2002, p.51

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CdR 97/2002 fin EN/o

CdR 97/2002 fin EN/o