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PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	Proposal for a COUNCIL DECISION on the position to be adopted, on behalf of the European Union, within the EEA Joint Committee, concerning the amendment to Annex XIII (Transport) to the EEA Agreement (3rd and 4th Railway Packages)
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2021/0288 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee, concerning the amendment
to Annex XIII (Transport) to the EEA Agreement**

(3rd and 4th Railway Packages)

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns the decision establishing the position to be adopted on the Union's behalf in the EEA Joint Committee in connection with the envisaged adoption of the Joint Committee Decisions concerning an amendment of Annex XIII (Transport) to the EEA Agreement.

2. CONTEXT OF THE PROPOSAL

2.1. The EEA Agreement

The Agreement on the European Economic Area ('the EEA Agreement') guarantees equal rights and obligations within the Internal Market for citizens and economic operators in the EEA. It provides for the inclusion of EU legislation covering the four freedoms throughout the 30 EEA States comprising of EU Member States, Norway, Iceland and Liechtenstein. In addition, the EEA Agreement covers cooperation in other important areas such as research and development, education, social policy, the environment, consumer protection, tourism and culture, collectively known as "flanking and horizontal" policies. The Agreement entered into force on 1 January 1994. The European Union together with its Member States is a party to the Agreement.

2.2. The EEA Joint Committee

The EEA Joint Committee is responsible for the management of the EEA Agreement. It is a forum for exchanging views linked to functioning of the EEA Agreement. Its decisions are taken by consensus. In accordance with the Treaty of Lisbon, responsibility for coordinating EEA matters on the EU side is with the European External Action Service.

2.3. The envisaged act of the EEA Joint Committee

The EEA Joint Committee is expected to adopt two EEA Joint Committee Decisions ('the envisaged acts') regarding the amendment of Annex XIII (Transport) to the EEA Agreement. The purpose of the envisaged acts is to incorporate 38 legal acts forming the 3rd and 4th Railway Packages into the EEA Agreement as follows:

Annex 1 – 3rd Railway Package

1. Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area¹, as corrected by OJ L 67, 12.3.2015, p. 32;
2. Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure²;

¹ OJ L 343, 14.12.2012, p. 32.

² OJ L 352, 23.12.2016, p. 1.

3. Commission Implementing Regulation (EU) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings³;
4. Commission Implementing Regulation (EU) 2015/429 of 13 March 2015 setting out the modalities to be followed for the application of the charging for the cost of noise effects⁴;
5. Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service⁵;
6. Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring⁶;
7. Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity⁷;
8. Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services⁸;
9. Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council⁹;
10. Commission Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area¹⁰

Annex 2 – 4th Railway Package

1. Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004¹¹;
2. Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast)¹²;
3. Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast)¹³, as corrected by OJ L 59, 7.3.2017, p. 41 and by OJ L 317, 9.12.2019, p. 144-144;

³ OJ L 29, 5.2.2015, p. 3.

⁴ OJ L 70, 14.3.2015, p. 36.

⁵ OJ L 148, 13.6.2015, p. 17.

⁶ OJ L 181, 9.7.2015, p. 1.

⁷ OJ L 94, 8.4.2016, p. 1.

⁸ OJ L 307, 23.11.2017, p. 1.

⁹ OJ L 294, 21.11.2018, p. 5.

¹⁰ OJ L 295, 14.11.2017, p. 69.

¹¹ OJ L 138, 26.5.2016, p. 1.

¹² OJ L 138, 26.5.2016, p. 44.

4. Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail¹⁴;
5. Commission Regulation (EU) 2019/554 of 5 April 2019 amending Annex VI to Directive 2007/59/EC of the European Parliament and of the Council on the certification of train drivers operating locomotives and trains on the railway system in the Community¹⁵;
6. Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EC) No 62/2006¹⁶;
7. Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012¹⁷;
8. Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010¹⁸;
9. Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan¹⁹;
10. Commission Implementing Regulation (EU) 2018/278 of 23 February 2018 amending the Annex to Regulation (EU) No 1305/2014 as regards the structure of the messages, data and message model, Wagon and Intermodal Unit Operating Database, and to adopt an IT standard for the communication layer of the Common Interface²⁰;
11. Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council²¹;
12. Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 establishing practical arrangements for issuing single safety certificates to railway undertakings

¹³ OJ L 138, 26.5.2016, p. 102.

¹⁴ OJ L 354, 23.12.2016, p. 22.

¹⁵ OJ L 97, 8.4.2019, p. 1.

¹⁶ OJ L 356, 12.12.2014, p. 438.

¹⁷ OJ L 129, 25.5.2018, p. 16.

¹⁸ OJ L 129, 25.5.2018, p. 26.

¹⁹ OJ L 3, 6.1.2017, p. 6.

²⁰ OJ L 54, 24.2.2018, p. 11.

²¹ OJ L 90, 6.4.2018, p. 66.

pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council, and repealing Commission Regulation (EC) No 653/2007²²;

13. Commission Implementing Regulation (EU) 2018/764 of 2 May 2018 on the fees and charges payable to the European Union Agency for Railways and their conditions of payment²³;
14. Commission Implementing Regulation (EU) 2018/867 of 13 June 2018 laying down the rules of procedure of the Board(s) of Appeal of the European Union Agency for Railways²⁴;
15. Commission Implementing Regulation (EU) 2018/868 of 13 June 2018 amending Regulation (EU) No 1301/2014 and Regulation (EU) No 1302/2014 as regards provisions on energy measuring system and data collecting system²⁵;
16. Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for ‘EC’ declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the ‘EC’ verification procedures for subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011²⁶;
17. Commission Implementing Regulation (EU) 2019/772 of 16 May 2019 amending Regulation (EU) No 1300/2014 as regards inventory of assets with a view to identifying barriers to accessibility, providing information to users and monitoring and evaluating progress on accessibility²⁷;
18. Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU²⁸;
19. Commission Implementing Regulation (EU) 2019/774 of 16 May 2019 amending Regulation (EU) No 1304/2014 as regards application of the technical specification for interoperability relating to the subsystem ‘rolling stock — noise’ to the existing freight wagons²⁹;
20. Commission Implementing Regulation (EU) 2019/775 of 16 May 2019 amending Regulation (EU) No 454/2011 as regards Change Control Management³⁰;
21. Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and

²² OJ L 129, 25.5.2018, p. 49.

²³ OJ L 129, 25.5.2018, p. 68.

²⁴ OJ L 149, 14.6.2018, p. 3.

²⁵ OJ L 149, 14.6.2018, p. 16.

²⁶ OJ L 42, 13.2.2019, p. 9.

²⁷ OJ L 139I, 27.5.2019, p. 1.

²⁸ OJ L 139I, 27.5.2019, p. 5.

²⁹ OJ L 139I, 27.5.2019, p. 89.

³⁰ OJ L 139I, 27.5.2019, p. 103.

Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474³¹;

22. Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU³²;
23. Commission Implementing Regulation (EU) 2019/778 of 16 May 2019 amending Regulation (EU) No 1305/2014 as regards Change Control Management³³;
24. Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011³⁴;
25. Commission Implementing Regulation (EU) 2020/387 of 9 March 2020 amending Regulations (EU) No 321/2013, (EU) No 1302/2014 and (EU) 2016/919 as regards the extension of the area of use and transition phases³⁵;
26. Commission Implementing Regulation (EU) 2020/424 of 19 March 2020 on submitting information to the Commission as regards non-application of technical specifications for interoperability in accordance with Directive (EU) 2016/797³⁶;
27. Commission Directive 2014/38/EU of 10 March 2014 amending Annex III to Directive 2008/57/EC of the European Parliament and of the Council as far as noise pollution is concerned³⁷;
28. Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 laying down specifications for the vehicle registers referred to in Article 47 of Directive (EU) 2016/797 of the European Parliament and of the Council and amending and repealing Commission Decision 2007/756/EC³⁸.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

The Commission services submit the draft Decisions of the EEA Joint Committee for adoption by the Council as the Union's position. The Commission would hope to be able to present it in the EEA Joint Committee at the earliest possible opportunity.

The content and nature of the annexed draft Decisions of the EEA Joint Committee go beyond what can be considered mere technical adaptations in the sense of the Council Regulation No 2894/94. The Union position shall therefore be established by the Council.

³¹ OJ L 139I, 27.5.2019, p. 108.

³² OJ L 139I, 27.5.2019, p. 312.

³³ OJ L 139I, 27.5.2019, p. 356.

³⁴ OJ L 139I, 27.5.2019, p. 360.

³⁵ OJ L 73, 10.3.2020, p. 6.

³⁶ OJ L 84, 20.3.2020, p. 20.

³⁷ OJ L 70, 11.3.2014, p. 20.

³⁸ OJ L 268, 26.10.2018, p. 53.

The annexed Decisions of the EEA Joint Committee contain *inter-alia* the following adaptations.

3rd Railway Package

Directive 2012/34 - Article 40(2) – adaptation (1c)

Article 40(2) sets out that the Commission shall be informed of and invited to attend as an observer the main meetings at which common principles and practices for allocation of infrastructure are developed. The adaptations clarify that the EFTA Surveillance Authority shall be informed and invited to the meetings on the same terms as the Commission, reflecting the two-pillar structure of the EEA Agreement.

Directive 2012/34 - Article 15(5) - adaptation (1d)

Article 15(5) sets out requirements related to the annual submission of information on the use of the networks and the evolution of framework conditions in the rail sector. According to a concession agreement between Liechtenstein and Austria, the Liechtenstein obligation to supply on an annual basis the necessary information on the use of the networks and the evolution of framework conditions in the rail sector shall be fulfilled by the Austrian railway federation, as the Austrian railway federation owns and operates the entire existing railway infrastructure in Liechtenstein. From the perspective of the Austrian railway federation the railway network/infrastructure on Liechtenstein soil is part of their own and is operated and supervised accordingly. Therefore, a paragraph shall be added to Article 15 setting out that the obligation in Article 15(5) shall not be applicable to Liechtenstein insofar as an EU Member State has provided, for a given year, data to the Commission that include the territory of Liechtenstein. It shall apply to all other data covered by Article 15(5).

4th Railway Package

Article 55 – Boards of Appeal

An adaptation to Regulation (EU) 2016/796, Article 55 foresees that EEA EFTA nationals shall be eligible as members of the Boards of Appeal, which implies also a right to vote. The same type of adaptation was used when the Regulation establishing a European Aviation Safety Agency was incorporated into EEA Agreement by EEA Joint Committee Decision No 163/2011.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’*

The concept of *‘acts having legal effects’* includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do

not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’³⁹.

4.1.2. Application to the present case

The EEA Joint Committee is a body set up by an agreement, namely the EEA Agreement. The two acts, which the EEA Joint Committee is called upon to adopt, constitute acts having legal effects. The envisaged acts will be binding under international law in accordance with Articles 103 and 104 of the EEA Agreement.

The envisaged acts do not supplement or amend the institutional framework of the Agreement. Therefore, the procedural legal basis for the proposed decisions is Article 218(9) TFEU in conjunction with Article 1(3) of Council Regulation No 2894/94 concerning arrangements for implementing the Agreement on the European Economic Area.

4.2. Substantive legal basis

4.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU in conjunction with Article 1(3) of Council Regulation No 2894/94 depends primarily on the substantive legal basis of the EU legal acts to be incorporated into the EEA Agreement.

If the envisaged acts pursue two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

4.2.2. Application to the present case

The main objective and content of the envisaged acts relate to transport. Therefore, the substantive legal basis of the proposed decisions is Article 91 of the Treaty on the Functioning of the European Union.

4.3. Conclusion

The legal basis of the proposed decisions should be Article 91, in conjunction with Article 218(9) TFEU and Article 1(3) of Council Regulation No 2894/94 concerning arrangements for implementing the Agreement on the European Economic Area.

5. PUBLICATION OF THE ENVISAGED ACT

As the acts of the EEA Joint Committee will amend Annex XIII (Transport) to the EEA Agreement, it is appropriate to publish them in the *Official Journal of the European Union* after its adoption.

³⁹ Judgment of the Court of Justice of 7 October 2014, Germany v Council, C-399/12, ECLI:EU:C:2014:2258, paragraphs 61 to 64.

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee, concerning the amendment
to Annex XIII (Transport) to the EEA Agreement**

(3rd and 4th Railway Packages)

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, in conjunction with Article 218(9) thereof,

Having regard to Council Regulation (EC) No 2894/94 of 28 November 1994 concerning arrangements for implementing the Agreement on the European Economic Area⁴⁰, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement on the European Economic Area⁴¹ ('the EEA Agreement') entered into force on 1 January 1994.
- (2) Pursuant to Article 98 of the EEA Agreement, the EEA Joint Committee may decide to amend, inter alia, Annex XIII to the EEA Agreement, which contains provisions on transport.
- (3) The following acts concerning rail transport are to be incorporated into the EEA Agreement:
 - Directive 2012/34/EU of the European Parliament and of the Council⁴²,
 - Directive (EU) 2016/2370 of the European Parliament and of the Council⁴³,

⁴⁰ OJ L 305, 30.11.1994, p. 6.

⁴¹ OJ L 1, 3.1.1994, p. 3.

⁴² Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as corrected by OJ L 67, 12.3.2015, p. 32, OJ L 343, 14.12.2012, p. 32.

- Commission Implementing Regulation (EU) 2015/171⁴⁴,
- Commission Implementing Regulation (EU) 2015/429⁴⁵,
- Commission Implementing Regulation (EU) 2015/909⁴⁶,
- Commission Implementing Regulation (EU) 2015/1100⁴⁷,
- Commission Implementing Regulation (EU) 2016/545⁴⁸,
- Commission Implementing Regulation (EU) 2017/2177⁴⁹,
- Commission Implementing Regulation (EU) 2018/1795⁵⁰,
- Commission Delegated Decision (EU) 2017/2075⁵¹,
- Regulation (EU) 2016/796 of the European Parliament and of the Council⁵²,
- Directive (EU) 2016/797 of the European Parliament and of the Council⁵³,
- Directive (EU) 2016/798 of the European Parliament and of the Council⁵⁴,
- Regulation (EU) 2016/2338 of the European Parliament and of the Council⁵⁵,

⁴³ Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure, OJ L 352, 23.12.2016, p. 1.

⁴⁴ Commission Implementing Regulation (EU) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings, OJ L 29, 5.2.2015, p. 3.

⁴⁵ Commission Implementing Regulation (EU) 2015/429 of 13 March 2015 setting out the modalities to be followed for the application of the charging for the cost of noise effects, OJ L 70, 14.3.2015, p. 36.

⁴⁶ Commission Implementing Regulation (EU) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service, OJ L 148, 13.6.2015, p. 17.

⁴⁷ Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring, OJ L 181, 9.7.2015, p. 1.

⁴⁸ Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity, OJ L 94, 8.4.2016, p. 1.

⁴⁹ Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services, OJ L 307, 23.11.2017, p. 1.

⁵⁰ Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council, OJ L 294, 21.11.2018, p. 5.

⁵¹ Commission Delegated Decision (EU) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area, OJ L 295, 14.11.2017, p. 69.

⁵² Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004, OJ L 138, 26.5.2016, p. 1.

⁵³ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast), OJ L 138, 26.5.2016, p. 44.

⁵⁴ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (recast), as corrected by OJ L 59, 7.3.2017, p. 41 and by OJ L 317, 9.12.2019, p. 144-144, OJ L 138, 26.5.2016, p. 102.

- Commission Regulation (EU) 2019/554⁵⁶,
- Commission Regulation (EU) No 1305/2014⁵⁷,
- Commission Delegated Regulation (EU) 2018/761⁵⁸,
- Commission Delegated Regulation (EU) 2018/762⁵⁹,
- Commission Implementing Regulation (EU) 2017/6⁶⁰,
- Commission Implementing Regulation (EU) 2018/278⁶¹,
- Commission Implementing Regulation (EU) 2018/545⁶²,
- Commission Implementing Regulation (EU) 2018/763⁶³,
- Commission Implementing Regulation (EU) 2018/764⁶⁴,
- Commission Implementing Regulation (EU) 2018/867⁶⁵,

⁵⁵ Regulation (EU) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail, OJ L 354, 23.12.2016, p. 22.

⁵⁶ Commission Regulation (EU) 2019/554 of 5 April 2019 amending Annex VI to Directive 2007/59/EC of the European Parliament and of the Council on the certification of train drivers operating locomotives and trains on the railway system in the Community, OJ L 97, 8.4.2019, p. 1.

⁵⁷ Commission Regulation (EU) No 1305/2014 of 11 December 2014 on the technical specification for interoperability relating to the telematics applications for freight subsystem of the rail system in the European Union and repealing the Regulation (EC) No 62/2006, OJ L 356, 12.12.2014, p. 438.

⁵⁸ Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012, OJ L 129, 25.5.2018, p. 16.

⁵⁹ Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010, OJ L 129, 25.5.2018, p. 26.

⁶⁰ Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan, OJ L 3, 6.1.2017, p. 6.

⁶¹ Commission Implementing Regulation (EU) 2018/278 of 23 February 2018 amending the Annex to Regulation (EU) No 1305/2014 as regards the structure of the messages, data and message model, Wagon and Intermodal Unit Operating Database, and to adopt an IT standard for the communication layer of the Common Interface, OJ L 54, 24.2.2018, p. 11.

⁶² Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council, OJ L 90, 6.4.2018, p. 66.

⁶³ Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 establishing practical arrangements for issuing single safety certificates to railway undertakings pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council, and repealing Commission Regulation (EC) No 653/2007, OJ L 129, 25.5.2018, p. 49.

⁶⁴ Commission Implementing Regulation (EU) 2018/764 of 2 May 2018 on the fees and charges payable to the European Union Agency for Railways and their conditions of payment, OJ L 129, 25.5.2018, p. 68.

⁶⁵ Commission Implementing Regulation (EU) 2018/867 of 13 June 2018 laying down the rules of procedure of the Board(s) of Appeal of the European Union Agency for Railways, OJ L 149, 14.6.2018, p. 3.

- Commission Implementing Regulation (EU) 2018/868⁶⁶,
- Commission Implementing Regulation (EU) 2019/250⁶⁷,
- Commission Implementing Regulation (EU) 2019/772⁶⁸,
- Commission Implementing Regulation (EU) 2019/773⁶⁹,
- Commission Implementing Regulation (EU) 2019/774⁷⁰,
- Commission Implementing Regulation (EU) 2019/775⁷¹,
- Commission Implementing Regulation (EU) 2019/776⁷²,
- Commission Implementing Regulation (EU) 2019/777⁷³,
- Commission Implementing Regulation (EU) 2019/778⁷⁴,
- Commission Implementing Regulation (EU) 2019/779⁷⁵,
- Commission Implementing Regulation (EU) 2020/387⁷⁶,

⁶⁶ Commission Implementing Regulation (EU) 2018/868 of 13 June 2018 amending Regulation (EU) No 1301/2014 and Regulation (EU) No 1302/2014 as regards provisions on energy measuring system and data collecting system, OJ L 149, 14.6.2018, p. 16.

⁶⁷ Commission Implementing Regulation (EU) 2019/250 of 12 February 2019 on the templates for ‘EC’ declarations and certificates for railway interoperability constituents and subsystems, on the model of declaration of conformity to an authorised railway vehicle type and on the ‘EC’ verification procedures for subsystems in accordance with Directive (EU) 2016/797 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 201/2011, OJ L 42, 13.2.2019, p. 9.

⁶⁸ Commission Implementing Regulation (EU) 2019/772 of 16 May 2019 amending Regulation (EU) No 1300/2014 as regards inventory of assets with a view to identifying barriers to accessibility, providing information to users and monitoring and evaluating progress on accessibility, OJ L 139I, 27.5.2019, p. 1.

⁶⁹ Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU, OJ L 139I, 27.5.2019, p. 5.

⁷⁰ Commission Implementing Regulation (EU) 2019/774 of 16 May 2019 amending Regulation (EU) No 1304/2014 as regards application of the technical specification for interoperability relating to the subsystem ‘rolling stock — noise’ to the existing freight wagons, OJ L 139I, 27.5.2019, p. 89.

⁷¹ Commission Implementing Regulation (EU) 2019/775 of 16 May 2019 amending Regulation (EU) No 454/2011 as regards Change Control Management, OJ L 139I, 27.5.2019, p. 103.

⁷² Commission Implementing Regulation (EU) 2019/776 of 16 May 2019 amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474, OJ L 139I, 27.5.2019, p. 108.

⁷³ Commission Implementing Regulation (EU) 2019/777 of 16 May 2019 on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU, OJ L 139I, 27.5.2019, p. 312.

⁷⁴ Commission Implementing Regulation (EU) 2019/778 of 16 May 2019 amending Regulation (EU) No 1305/2014 as regards Change Control Management, OJ L 139I, 27.5.2019, p. 356.

⁷⁵ Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011, OJ L 139I, 27.5.2019, p. 360.

- Commission Implementing Regulation (EU) 2020/424⁷⁷,
 - Commission Directive 2014/38/EU⁷⁸,
 - Commission Implementing Decision (EU) 2018/1614⁷⁹,
- (4) Annex XIII (Transport) to the EEA Agreement should therefore be amended accordingly.
- (5) The position of the Union in the EEA Joint Committee should therefore be based on the draft EEA Joint Committee Decisions set out in the Annexes to this Decision,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on the Union's behalf within the EEA Joint Committee on the proposed amendment of Annex XIII (Transport) to the EEA Agreement shall be based on the draft decisions of the EEA Joint Committee attached to this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

⁷⁶ Commission Implementing Regulation (EU) 2020/387 of 9 March 2020 amending Regulations (EU) No 321/2013, (EU) No 1302/2014 and (EU) 2016/919 as regards the extension of the area of use and transition phases, OJ L 73, 10.3.2020, p. 6.

⁷⁷ Commission Implementing Regulation (EU) 2020/424 of 19 March 2020 on submitting information to the Commission as regards non-application of technical specifications for interoperability in accordance with Directive (EU) 2016/797, OJ L 84, 20.3.2020, p. 20.

⁷⁸ Commission Directive 2014/38/EU of 10 March 2014 amending Annex III to Directive 2008/57/EC of the European Parliament and of the Council as far as noise pollution is concerned, OJ L 70, 11.3.2014, p. 20.

⁷⁹ Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 laying down specifications for the vehicle registers referred to in Article 47 of Directive (EU) 2016/797 of the European Parliament and of the Council and amending and repealing Commission Decision 2007/756/EC, OJ L 268, 26.10.2018, p. 53.