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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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

COUNCIL DECISION (EU) 2021/...

of ...

**on the position to be adopted, on behalf of the European Union,
within the EEA Joint Committee concerning the amendment
of 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 Area¹, and in particular Article 1(3) thereof,

Having regard to the proposal from the European Commission,

¹ OJ L 305, 30.11.1994, p. 6.

Whereas:

- (1) The Agreement on the European Economic Area¹ ('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 (Transport) to the EEA Agreement.
- (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 Council²,
 - Directive (EU) 2016/2370 of the European Parliament and of the Council³,

¹ OJ L 1, 3.1.1994, p. 3.

² Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

³ 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).

- Commission Implementing Regulation (EU) 2015/171¹,
- Commission Implementing Regulation (EU) 2015/429²,
- Commission Implementing Regulation (EU) 2015/909³,
- Commission Implementing Regulation (EU) 2015/1100⁴,
- Commission Implementing Regulation (EU) 2016/545⁵,

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- ¹ 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).
- ² 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).
- ³ 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).
- ⁴ 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).
- ⁵ 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).

- Commission Implementing Regulation (EU) 2017/2177¹,
- Commission Implementing Regulation (EU) 2018/1795²,
- Commission Delegated Decision (EU) 2017/2075³,
- Regulation (EU) 2016/796 of the European Parliament and of the Council⁴,
- Regulation (EU) 2016/2338 of the European Parliament and of the Council⁵,

¹ 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).

² 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).

³ 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).

⁴ 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).

⁵ 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).

- Commission Regulation (EU) 2019/554¹,
- Commission Regulation (EU) No 1305/2014²,
- Commission Delegated Regulation (EU) 2018/761³,
- Commission Delegated Regulation (EU) 2018/762⁴,
- Commission Implementing Regulation (EU) 2017/6⁵,

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- ¹ 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).
- ² 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).
- ³ 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).
- ⁴ 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.)
- ⁵ 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).

- Commission Implementing Regulation (EU) 2018/278¹,
- Commission Implementing Regulation (EU) 2018/545²,
- Commission Implementing Regulation (EU) 2018/763³,
- Commission Implementing Regulation (EU) 2018/764⁴,
- Commission Implementing Regulation (EU) 2018/867⁵,

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- ¹ 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).
- ² 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).
- ³ 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).
- ⁴ 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).
- ⁵ 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) 2018/868¹,
- Commission Implementing Regulation (EU) 2019/250²,
- Commission Implementing Regulation (EU) 2019/772³,
- Commission Implementing Regulation (EU) 2019/773⁴,
- Commission Implementing Regulation (EU) 2019/774⁵,

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- ¹ 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).
- ² 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).
- ³ 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).
- ⁴ 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).
- ⁵ 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).

- Commission Implementing Regulation (EU) 2019/775¹,
- Commission Implementing Regulation (EU) 2019/776²,
- Commission Implementing Regulation (EU) 2019/777³,
- Commission Implementing Regulation (EU) 2019/778⁴,

¹ 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).

² 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).

³ 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).

⁴ 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).

- Commission Implementing Regulation (EU) 2019/779¹,
- Commission Implementing Regulation (EU) 2020/387²,
- Commission Implementing Regulation (EU) 2020/424³,
- Directive (EU) 2016/797 of the European Parliament and of the Council⁴,

¹ 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).

² 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).

³ 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).

⁴ 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 (OJ L 138, 26.5.2016, p. 44).

- Directive (EU) 2016/798 of the European Parliament and of the Council¹,
 - Commission Directive 2014/38/EU²,
 - Commission Implementing Decision (EU) 2018/1614³.
- (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 decisions of the EEA Joint Committee,

HAS ADOPTED THIS DECISION:

¹ Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.5.2016, p. 102).

² 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).

³ 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).

Article 1

The position to be adopted, on behalf of the Union, 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 Committee¹.

Article 2

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

Done at Brussels,

For the Council

The President

¹ See documents ST 11745/21 and ST 11746/21 at <http://register.consilium.europa.eu>.