

## **Position Paper**

Brussels, 15 December 2016

# **Common practices for decision making of regulatory bodies regarding the exchange of information to assess the compatibility of rail vehicles with specific sections of railway lines**

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## 1. Summary

**The Community of European Railway and Infrastructure Companies (CER) is concerned about the draft Commission Implementing Regulation about common practices for decision making of regulatory bodies regarding the exchange of information to assess the compatibility of rail vehicles with specific sections of railway lines. The proposal is neither in line with the basic principles of the Interoperability Directive nor with the current draft text of the implementing act for vehicle authorisation and the article 23 on the use of vehicles.**

## 2. CER general comment

The proposal goes beyond the legal basis as defined in article 57 (8) of Directive 2012/34. This article applies if measures are needed to ensure the efficient cooperation of regulatory bodies. The remit of the cooperation of regulatory bodies is limited to the scope of the Recast Directive and cannot cover measures which are subject to other legal acts like the Interoperability or Safety Directive.

## 3. CER detailed comments

### 3.1 Use of vehicles

According to article 23 of the Interoperability Directive, before a railway undertaking uses a vehicle in the area of use specified in its authorisation for placing on the market, it shall check that the vehicle has been authorised for placing on the market in accordance with Article 21 of the Interoperability Directive. The railway undertaking also has to ensure the vehicle is duly registered and that it is compatible with the route on the basis of the infrastructure register, the relevant TSIs or any relevant information to be provided by the infrastructure manager free of charge and within a reasonable period of time, where such a register does not exist or is incomplete.

According to article 23 of the Interoperability Directive it is the solely right and responsibility of a railway undertaking to use its vehicles (if all conditions of the aforesaid article are fulfilled).

### 3.2. Register of infrastructure (RINF)

All relevant information shall be available in RINF (the infrastructure register). Until RINF is comprehensive, special arrangements between railway undertakings and infrastructure manager shall be made. CER strongly objects that such detailed technical information is part of the network statement. The network statement sets out in detail the general rules, deadlines, procedures and criteria for charging and capacity-allocation schemes, including such other information as is required to enable applications for infrastructure capacity. The network statement does not substitute RINF. The gauge is listed in RINF under clause 1.1.1.1.3.

### 3.3. Extraordinary loading

In case of extraordinary loading, when the information listed in RINF is not sufficient, the infrastructure manager shall carry out the necessary measures in the network to assess the route compatibility for such extraordinarily loaded vehicles. The costs are to be paid by the requesting party. The necessary in-situ examination generates costs for the infrastructure manager as he is obliged to provide information and services stipulated in Annex II p. 1 and p. 3c of the Directive 2012/34. According to the Art. 3.4. of the Regulation 2015/909 the infrastructure manager decides on including in its calculation costs that are directly incurred by the operation of the train service, therefore the proposal goes against the existing legislation on charges and costs of the infrastructure manager.

### 3.4 Entities in charge of maintenance (ECM)

The entity in charge of maintenance shall ensure that the vehicles for the maintenance of which it is in charge are in a safe state of running according to Article 14 of the Rail Safety Directive. The ECM ensures that the vehicles meets the essential requirements as defined in the vehicle authorisation file. As neither the ECM nor the manufactures are mentioned in the process of the use of vehicles they should not be assigned any role.

## 4. Recommendation

The Community of European Railway and Infrastructure Companies (CER) recommends to stop the work on the aforesaid draft Commission Implementing Regulation and recommends instead to work on a guideline for the use of vehicles (IOD Article 23).

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### About CER

The Community of European Railway and Infrastructure Companies (CER) brings together more than 70 railway undertakings, their national associations as well as infrastructure managers and vehicle leasing companies. The membership is made up of long-established bodies, new entrants and both private and public enterprises, representing 73% of the rail network length, 80% of the rail freight business and about 96% of rail passenger operations in EU, EFTA and EU accession countries. CER represents the interests of its members towards EU policy makers and transport stakeholders, advocating rail as the backbone of a competitive and sustainable transport system in Europe. For more information, visit [www.cer.be](http://www.cer.be) or follow us via Twitter at @CER\_railways.

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