



The Fourth Railway Package

*Completing the Single European Railway Area
to foster European Competitiveness and Growth*

Characteristics of the Railway Sector

- *Passenger modal share static at 6% (despite rapid growth in high speed rail)*
- *Consumer satisfaction poor (rail services ranked 27th of 30 service industries)*
- *Public infrastructure investment → 25 billion Euro in 2009*
- *Public subsidy for PSO of 21 billion Euro in 2009*
- *Internal market still fragmented along national lines*
- *Long and costly authorisation procedures for rolling stock and undertakings*

Why do we need to act?

- *Improve competitiveness of rail with other modes in order to increase the market share of the most environment-friendly mode of transport*
- *Spend public money more efficiently on public rail transport services*

How do we move forward?

- *Encourage market entry by reducing administrative and technical barriers*
- *Open domestic rail passenger transport to competition*
- *Encourage market entry and ensure non – discrimination through a better governance of the infrastructure*

→ Fourth package to complete the market opening process and provide for legislative stability and business development visibility

How was the package prepared ?

- *Consultation of a high number (nearly 500) of stakeholders*
- *Eurobarometer survey: 25.000 citizens in 25 Member States*
- *Stakeholders workshops and conferences*
- *External support study*
- *Stakeholders studies and position papers*
- *3 Impact assessments*

The Three Pillars of the Fourth Package

- 1. To establish consistent approvals procedures for rail interoperability and safety*
- 2. To open domestic passenger markets*
- 3. To create better structures and governance for infrastructure managers*



New ERA Regulation

New ERA Regulation

Commission proposes repeal of Regulation 881/2004 establishing ERA in light of:

- 1. New powers resulting from the impact assessment process, inter alia:**
 - *issuing single safety certificates and vehicle authorisations (with a right to charge the applicants for issuing them)*
 - *strengthened control by ERA over the functioning of NSAs and NoBos (right to audit and inspections)*
 - *strengthened role in the process of removal of unnecessary national rules*
 - *more role in verifying the compatibility of calls for tenders for ERTMS in MS with technical rules (as this is not currently performed satisfactorily in MS e.g. NL)*

2. Outcome of Joint Statement of the Parliament, Council and the Commission on agencies, *inter alia*:

- *standard provisions for all EU agencies regarding internal structure, HR and budget*
- *regular evaluation and a review clause*
- *strengthened governance structure*
- *introduction of multi-annual work programming*

3. Proposals of a Reflection Group on the Future of ERA, mainly:

- *reinforced cooperation with stakeholders*
- *strengthened communication and dissemination tasks*
- *improved economic evaluation and cost-benefit analysis*
- *more role in international relations and research*



Rail Safety Directive

Proposal for a Recast

Why amend the safety Directive?

- *Migration towards a single safety certificate*
- *Task Force on national safety rules*
- *Task Force on the vehicle authorisation process*
- *EC study on responsibilities of all actors in the rail transport chain*

Towards a single safety certificate

- *The principle was already established in the Directive in 2004*
- *ERA issued a recommendation on the migration towards a single certificate and held a workshop with stakeholders on 7 March 2012*
- *the move to a single safety certificate requires two pre-conditions to be in place:*
 - **ALL actors in the railway sector take their full responsibility under Article 4 (3) of EC Directive 2004/49 for managing, controlling and monitoring risks**
 - **There is harmonised decision making and supervision of the safety of the sector by NSAs**

Legal Elements of the Proposal

Scope (art. 2)

The scope has been made consistent with the Interoperability Directive: exclusion of urban and functionally separated networks

Definitions (art. 3)

new definitions for light rail, manufacturer, consignor, loader, filler

Developing and Improving Railway Safety (art. 4)

→ MS and ERA should ensure that railway safety is maintained and improved.

→ MS oblige IM and RU:

- to implement necessary risk control measures;*
- to apply EU and national rules;*
- to establish safety management systems*

→ All actors involved in the safety operations should implement the necessary risk control measures (ECM, consignor, manufacturer,...)

→ New obligations at interfaces



National rules (art. 8)

→ *Removal of Annex II:*

Member States may set up new national rules only if current safety methods are not covered by a CSM or as an urgent preventive measure. Draft to be submitted. Procedure in ERA regulation.

→ *Member States should keep their system of national rules updated, delete obsolete rules and keep COM and ERA informed. ERA can invite a MS to remove a national rule.*

→ *Member States should not adopt new national rules or set up projects that increase the diversity of the present system.*

Single Safety Certificate (art. 10-11)

- 1) *A railway undertaking that will only operate in one Member State may choose to apply for the single safety certificate to ERA or its national safety authority;*
- 2) *In case of an area of operation involving different MS, ERA will issue the single safety certificate but the part of the application related to the compliance to national rules will be assessed by the safety authorities*
- 3) *Resolution procedures in case of disagreement between ERA and a safety authority*
- 4) *Cooperation agreements between ERA and the safety authorities on certification and supervision*

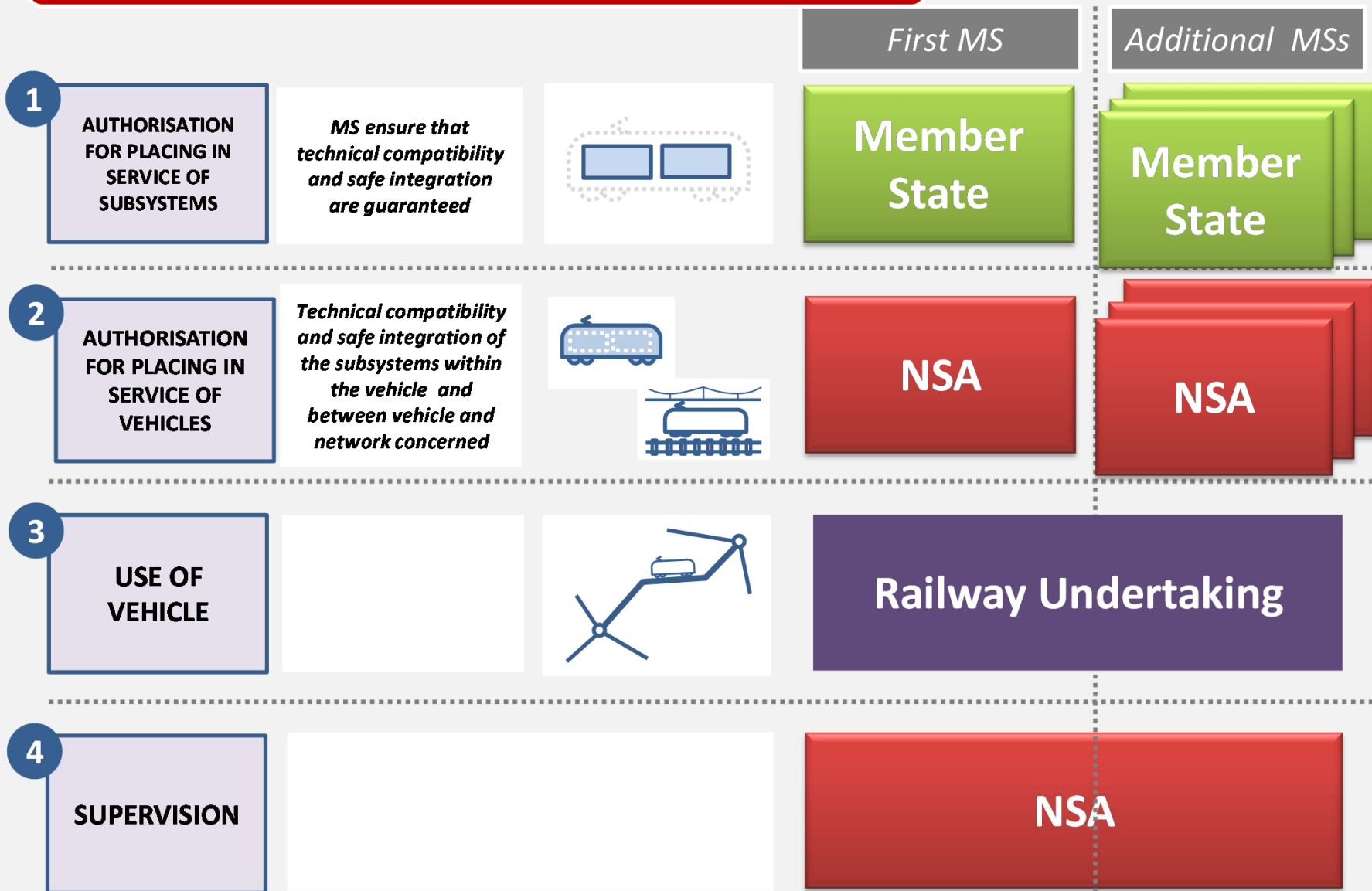


Rail Interoperability Directive

*Proposal for a Recast
Of Directive Directive 2008/57/EC*

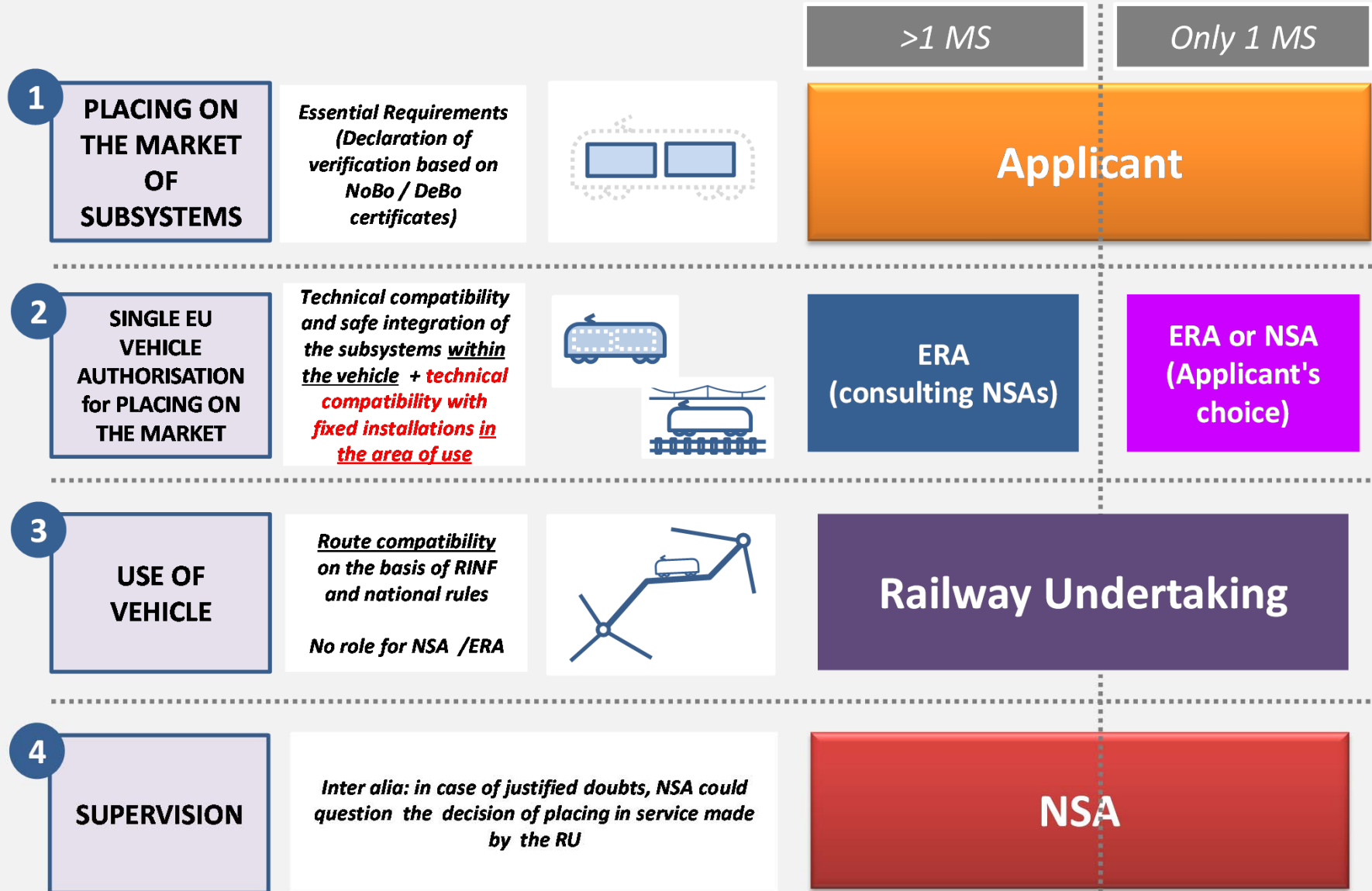
Current Vehicle Authorisation Process Directives 2004/49/EC and 2008/57/EC

Roles & Responsibilities



Council General Approach - June 2013

Roles & Responsibilities





The Proposals on the Governance of the Infrastructure Manager and the Opening of Domestic Passenger Markets

Governance Proposals

- *All infrastructure management functions in the same hands (unified IM)*
- *Coordination body for infrastructure managers and users*
- *Establish EU network of IM's for international coordination*

- *Institutional separation of infrastructure and transport operations is the solution by default*
- *Possibility to keep integrated structure only under strict independence rules (based on the experience of the ITO model in Energy) and with possibility for other MS to block access of integrated operators*

Governance Proposals (I)

- *Art. 63(1) of Dir. 2012/34/EU: Rendez-vous clause*
- *Art. 7: Infrastructure managers to fulfil all necessary functions*
- *Art. 3(2): Definition of the functions: development, operation, maintenance*
- *Art. 7: Preferred model institutional unbundling, no return to integration after entry into force of the Directive*
- *Art. 7a: Effective independence of an IM within a vertically integrated undertaking: legal independence, no mutual shareholding, strict rules for financial relations*

Governance proposals (II)

- **Art. 7b: Independence of staff and management:**
 - *Following closely Annex V of COM189(2006) and Chinese walls of Directives 2009/72 and 2009/73*
 - *In addition rules on remuneration of managers*
- **Art. 7c: Verification of compliance**
 - *Upon request of a MS or ex officio, Commission verifies whether 7a and 7b are implemented and this ensures level playing field and absence of competition distortion*
- **Art. 7d: Coordination Committee for the network**
- **Art. 7e: European Network of Infrastructure Managers**

Domestic Rail Passenger Market Proposals

- *Art. 10: Open access for all EU operators to all markets, including domestic passenger markets*
- *Art. 11: Right of access may be limited to protect economic equilibrium of public services*
- *Test to be done by regulators, as for international services*
- *Article 38(4): Time frame for economic equilibrium test*
- *Art. 13a: Possibility of integrated ticketing schemes between passenger operators, in a way that does not distort competition*



Public Service Obligations

Social dimension of the initiative

- *Railway undertakings account for some 800 000 worker*
- *More indirect employment in manufacturing, rail-related services*
- *Impact of the measures will depend on interaction of the expected efficiency gains (up to 20%) with high number of retirements due to rapid ageing of the rail workforce.*
- *30% of rail workforce to retire in the next 10 years with risks of shortage .*
- *New entrants are sources of job creation (e.g. 1.000 employment with the launch of NTV in Italy)*
- *Transfer of workers between PSC contractors required in specific conditions but MS always permitted to impose*

Amendment of Regulation 1370/2007

Definition of Public Service Obligations (PSO)/scope of Public Service Contracts (PSC)

- *Competent authorities (CA) to define objectives of public transport policy in public transport plans*
- *PSO to be consistent with public transport plans*

Amendment of Regulation 1370/2007

Definition of Public Service Obligations (PSO)/scope of Public Service Contracts (PSC)

- *Specifications of PSO and their scope of application to comply with various criteria (mainly based on Treaty principles) in view of achieving objectives of public transport plans:*
 - Appropriateness (suitable means?)*
 - Necessity and proportionality (services envisaged and provided by the market not sufficient?)*

Amendment of Regulation 1370/2007

Definition of Public Service Obligations (PSO)/scope of Public Service Contracts (PSC)

- *Specifications of PSO and related compensation of the net financial effect of complying with them to:*
 - Achieve public transport policy objectives most cost-effectively*
 - Financially sustain provision of public passenger transport in the long term*
- *Stakeholders to be consulted on draft public transport plan and draft PSO specification*

Amendment of Regulation 1370/2007

Definition of Public Service Obligations (PSO)/scope of Public Service Contracts (PSC)

For rail only:

- *Compliance with assessment based on criteria and procedure controlled by rail regulatory body*
- *Maximum annual volume of PSC (in terms of train-km) higher value of either 10 million or 1/3 of total national rail passenger transport volume under PSC*

Amendment of Regulation 1370/2007

Award of PSC

- *Deletion of Art 5(6) → mandatory competitive award for rail transport*
- *Other possibilities of direct award (internal operator, small scale contract, emergency measure) are not modified*
- *Threshold for small scale PSC in rail: €5.000.000*
- *CA to make available all relevant information for establishing a bid (passenger demand, costs, revenues, rolling stock specifications, etc.)*

Amendment of Regulation 1370/2007

Award of PSC

- *Mandatory tendering for rail from 3 December 2019*
- *Transitional period until 31 December 2022 for rail PSC directly awarded between 1 January 2013 and 3 December 2019*
- *In order to increase competition CA may decide before launching the tender procedure to limit the number of contract lots to be awarded to the same railway undertaking*

Amendment of Regulation 1370/2007

Framework conditions

- *Competent authorities to ensure fair access to rolling stock so that new entrant operators are able to take part in tenders*
- *Where there is no well functioning market for rolling stock, CA to take the residual value risk of the rolling stock, if operators intending to participate in tender request this.*
- *CA can choose most appropriate means to comply with this requirement while respecting EU law (state aid rules):*
 - managing its own fleet,*
 - providing a bank guarantee,*
 - take-over guarantee*
- *Commission to adopt implementing measure defining details of procedure to be followed (introduction of committee procedure in Regulation - SERAC)*

Amendment of Regulation 1370/2007

Framework conditions

- *transparency on start and duration of awarded PSC in annual reports of CA for better bidding capacity management of RU*
- *To ease social impact of opening cross-sectorial legislation (e.g. Directive 2001/23) or CA determine transfer of workers between PSC contractors (no legislative modification)*

Conclusion

- *Initiatives are mutually beneficial and enforcing*
- *Will enhance modal shift*
- *Removing discrimination and conflicts of interest*
- *Improve value through competition*
- *Make industry more responsive to customer needs*
- *Increase demand for skilled workers*
- *Create conditions for growth in the railway sector*
- *Initiatives are coherent with the fundamental principles of establishing a single market and with the policy aims pursued in other network industries (unbundling/separation/independence).*