



**COUNCIL OF
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Delegations will find attached Commission document D009791/03.

Encl.: D009791/03



EUROPEAN COMMISSION

Brussels,
C(2010)

D009791/03

Draft

COMMISSION DECISION

of

**concerning the technical specifications of interoperability relating to the subsystem
'rolling stock – noise' of the trans-European conventional rail system**

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COMMISSION DECISION

of

**concerning the technical specifications of interoperability relating to the subsystem
'rolling stock – noise' of the trans-European conventional rail system**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2008/57/EC of 17 June 2008 of the European Parliament and of the Council on the interoperability of the rail system within the Community¹, and in particular Article 6(1) thereof,

Having regard to the recommendation of the European Railway Agency (No ERA/REC/02-2010/INT) of 30 March 2010,

Whereas:

- (1) Article 12 of Regulation (EC) No 881/2004 of the European Parliament and the Council of 29 April 2004² requires that the European Rail Agency (hereinafter 'the Agency') shall ensure that the technical specifications for interoperability (hereinafter referred to as TSIs) are adapted to technical progress and market trends and to the social requirements and propose to the Commission the amendments to the TSIs which it considers necessary.
- (2) By Decision C(2007)3371 of 13 July 2007, the Commission gave a framework mandate to the Agency to perform certain activities under Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system³ and Directive 2001/16/EC of the European Parliament and the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system⁴. Under the terms of this framework mandate, the Agency was requested to perform the limited revision of the conventional rail TSI on Rolling stock – Noise (hereinafter TSI Noise), adopted by Commission Decision 2006/66/EC of 23 December 2005⁵.

¹ OJ L 191, 18.7.2008, p. 1.

² OJ L 220, 21.6.2004, p. 3.

³ OJ L 235, 17.9.1996, p. 6.

⁴ OJ L 110, 20.4.2001, p. 1.

⁵ OJ L 37, 8.02.2006, p. 1.

- (3) A reference track whose use is mandatory under TSI Noise is not available in every Member State, and the Member States cannot be obliged to create one. This has prevented the development of a level playing field for all actors in the European Union and has created the financial burden which is higher than foreseen in the original Decision. Numerous problems regarding the availability of reference track, the test methods and the test costs have been signalled to the Commission and to the Agency.
- (4) With the present Decision the Commission intends to clarify responsibilities with regard to the reference track, allow testing on non-reference track while assuring a proper collection and recording of comparable data for a future TSI revision, reduce the burden of proof compliance for small batches of vehicles and include the latest developments with regard to ISO EN 3095 standard.
- (5) The noise limits and the scope will remain unchanged. This Decision therefore constitutes only a limited revision of TSI Noise and does not compromise a full revision of TSI Noise as provided in Section 7 of the TSI.
- (6) For the sake of clarity and simplicity, it is better to replace Decision 2006/66/EC as a whole.
- (7) Decision 2006/66/EC should therefore be repealed.
- (8) The measures provided for in this Decision are in conformity with the opinion of the Committee established in accordance with Article 29(1) of Directive 2008/57/EC,

HAS ADOPTED THIS DECISION:

Article 1

1. The revised version of the Technical Specification for Interoperability (hereinafter referred to as the TSI) relating to subsystem 'rolling stock – noise' of the trans-European conventional rail system referred to in Article 6(1) of Directive 2008/57/EC, as set out in the Annex, is adopted.

2. The TSI shall apply to the rolling stock of the trans-European conventional rail system as defined in Annex I to Directive 2008/57/EC.

It shall apply to new and existing rolling stock as set out in section 7 of the Annex.

Article 2

Where agreements contain requirement relating to noise emission limits, Member States shall notify them to the Commission within six months of the entry into force of this Decision, provided they were not already notified under Decision 2006/66/EC.

The agreements to be notified shall be:

- (a) national agreements between the Member States and railway undertakings or infrastructure managers, agreed on either a permanent or a temporary basis and necessitated by the very specific or local nature of the intended transport service;

- (b) bilateral or multilateral agreements between railway undertakings, infrastructure managers or safety authorities which deliver significant levels of local or regional interoperability;
- (c) international agreements between one or more Member States and at least one third country, or between railway undertakings or infrastructure managers of Member States and at least one railway undertaking or infrastructure manager of a third country which deliver significant levels of local or regional interoperability.

Article 3

The procedures for assessment of conformity, suitability for use and EC verification set out in Section 6 of the Annex to this Decision shall be based on the modules defined in Commission Decision [...]⁶

Article 4

The Commission shall prepare the review and update of this TSI and make appropriate recommendations to the Committee referred to in Article 29 of Directive 2008/57/EC ('RIS Committee') in order to take account of developments in technology or social requirements, in accordance with the procedure set out in point 7.2 of the Annex to this Decision.

Article 5

Commission Decision 2006/66/EC⁷ is repealed. Its provisions shall however continue to apply in relation to the maintenance of projects authorised in accordance with the TSI annexed to that Decision and, unless the applicant requests to apply this Decision, to projects for a new vehicle and for the renewal or upgrading of an existing vehicle which are at an advanced stage of development or the subject of a contract in course of performance at the date of notification of the present Decision.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, [...]

For the Commission
The President
[...]

⁶ To be filled in when the relevant Decision has been adopted
⁷ OJ L 37, 8.02.2006, p. 1.