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Delegations will find attached Commission document D023356/02.

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Brussels, **XXX**
[...](2012) **XXX** draft

COMMISSION DIRECTIVE ../.../EU

of XXX

amending Annex III to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community

(Text with EEA relevance)

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of XXX

amending Annex III to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community

(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 the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community¹, and in particular Article 30(3) thereof,

Whereas:

- (1) Measures designed to amend non-essential elements of Directive 2008/57/EC and relating to the adaptation of Annexes II to IX to that Directive are to be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 29(4) of Directive 2008/57/EC.
- (2) The United Nations Convention on the Rights of Persons with Disabilities, to which the European Union is a party², establishes, in Article 3, accessibility as one of its general principles and requires, in Article 9, that States Parties take appropriate measures to ensure to persons with disabilities access on an equal basis with others. These measures shall include the identification and elimination of obstacles and barriers to accessibility and shall apply inter alia to transportation. In accordance with Article 21(2) TFUE, agreements concluded by the Union are binding upon the institutions of the Union and on its Member States, and Directive 2008/57/EC – as an instrument of European Union secondary legislation – is subject to the obligations deriving from the Convention.
- (3) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations states in Recital 10 that disabled persons and persons with reduced mobility have the same right as all other citizens to free movement, freedom of choice and non-discrimination and should have opportunities for rail travel comparable to those of other citizens. Article 21 of the Regulation requires railway undertakings and station managers to ensure, through

¹ OJ L 191, 18.7.2008, p. 1.

² Council Decision 2010/48/EC of 26 November 2009 concerning the conclusion, by the European Community, of the United Nations Convention on the Rights of Persons with Disabilities (OJ L 23, 27.1.2010, p. 35).

compliance with the TSI for persons with reduced mobility, that stations, platforms, rolling stock and other facilities are accessible to disabled persons and persons with reduced mobility.

- (4) An adaptation of Annex III to Directive 2008/57/EC is necessary in order to include therein an explicit reference to accessibility. Accessibility is an essential requirement that is both a general requirement for the interoperability of the rail system and applies specifically to the infrastructure, rolling stock, operations and telematics applications for passengers' subsystems. Annex III to Directive 2008/57/EC should therefore be amended accordingly.
- (5) The measures provided for in this Directive do not in any way affect the principle of gradual implementation set out in Directive 2008/57/EC, notably that target subsystems indicated in a TSI may be obtained gradually within a reasonable time-scale and that each TSI should indicate an implementation strategy in order to make a gradual transition from the existing situation to the final situation in which compliance with the TSI will be the norm.
- (6) The measures provided for in this Directive are consistent with an approach to achieving access on an equal basis by applying technical solutions or operational measures or both.
- (7) The measures provided for in this Directive are in accordance with the opinion of the Committee established pursuant to Article 29(1) of Directive 2008/57/EC.

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 2008/57/EC, which sets out Essential Requirements, is hereby amended as follows:

1. The following paragraphs shall be added to Section 1:

'1.6 Accessibility

1.6.1 The "infrastructure" and "rolling stock" subsystems must be accessible to persons with disabilities and persons with reduced mobility in order to ensure access on an equal basis with others by way of the prevention or removal of barriers, and by way of other appropriate measures. This shall include the design, construction, renewal, upgrade, maintenance and operation of the relevant parts of the subsystems to which the public has access.

1.6.2 The "operations" and "telematics applications for passengers" subsystems must provide for the necessary functionality required to facilitate access to persons with disabilities and persons with reduced mobility on an equal basis with others by way of the prevention or removal of barriers, and by way of other appropriate measures.

2. The following paragraph shall be added to subparagraph 1 of Section 2:

'2.1.2. Accessibility

2.1.2.1 Infrastructure subsystems to which the public has access must be accessible to persons with disabilities and persons with reduced mobility in accordance with 1.6.'

3. The following paragraph shall be added to subparagraph 4 of Section 2:

‘2.4.5. Accessibility

2.4.5.1 Rolling stock subsystems to which the public has access must be accessible to persons with disabilities and persons with reduced mobility in accordance with 1.6.’

4. The following paragraph shall be added to subparagraph 6 of Section 2:

‘2.6.4. Accessibility

2.6.4.1 Appropriate steps must be taken to ensure that operating rules provide for the necessary functionality required to ensure accessibility for persons with disabilities and persons with reduced mobility.’

5. The following paragraph shall be added to subparagraph 7 of Section 2:

‘2.7.5. Accessibility

2.7.5.1 Appropriate steps must be taken to ensure that telematics applications for passengers subsystems provide for the necessary functionality required to ensure accessibility for persons with disabilities and persons with reduced mobility.’

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January 2014 at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.
3. The obligations for transposition and implementation of this Directive shall not apply to the Republic of Cyprus and the Republic of Malta for as long as no railway system is established within their territories.

Article 3

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

*For the Commission
The President
José Manuel BARROSO*