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**Zweite Verordnung
zum Erlass und zur Änderung eisenbahnrechtlicher Vorschriften
(Second Order enacting and amending Railway Regulations)***

of 5 July 2007

The Federal Ministry of Transport, Building and Urban Affairs decrees by virtue of:

- Section 26, paragraph 1, points 1, 1c and 1d, each in conjunction with paragraph 4, point 1 of the *Allgemeines Eisenbahngesetz* (General Railway Act) of 27 December 1993 (BGBl. I, p. 2378, 2396, 1994 I, p. 2439), of which Section 26, paragraph 1, points 1, 1c and 1d were last amended by Article 1, point 7(a) of the Act of 16 April 2007 (BGBl. I, p. 522) and Section 26, paragraph 4, by Article 1, point 16, of the Act of 21 June 2002 (BGBl. I, p. 2191),
- Section 26, paragraph 1, points 3 and 5, each in conjunction with paragraph 5, sentence 1 of the *Allgemeines Eisenbahngesetz* (General Railway Act) of 27 December 1993 (BGBl. I, p. 2378, 2396, 1994 I, p. 2439),
- Section 26, paragraph 1, point 9, in conjunction with paragraph 3, sentence 5, of the *Allgemeines Eisenbahngesetz* (General Railway Act) of 27 December 1993 (BGBl. I, p. 2378, 2396, 1994 I, p. 2439), of which Section 26, paragraph 1, point 9 was last amended by Article 1, point 4(a) of the Act of 13 December 2006 (BGBl. I, p. 2919) and Section 26, paragraph 3, sentence 5, inserted by Article 1, point 12(b) of the Act of 27 April 2005 (BGBl. I, p. 1138) and amended by Article 1, point 9 of the Act of 9 December 2006 (BGBl. I, p. 2833), in conjunction with the 2nd part of the *Verwaltungskostengesetz* (Administrative Costs Act) of 23 June 1970 (BGBl. I, p. 821) in agreement with the Federal Ministry of Finance and the Federal Ministry of Economics and Technology,
- Section 26, paragraph 1, point 11, in conjunction with paragraph 4, point 1, of the *Allgemeines Eisenbahngesetz* (General Railway Act) of 27 December 1993 (BGBl. I, p. 2378, 2396, 1994 I, p. 2439), of which Section 26, paragraph 1, point 11, was last amended by Article 1, point 7(a) of the Act of 16 April 2007 (BGBl. I, p. 522) and Section 26, paragraph 4, by Article 1, point 16 of the Act of 21 June 2002 (BGBl. I, p. 2191),

* This Order serves to implement Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 164, p. 44, L 220, p. 16), last amended by Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 (OJ L 164, p. 114, L 220, p. 40) and the translation of Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ L 235, p. 6) and Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system (OJ L 110, p. 1), each last amended by last amended by Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 (OJ L 164, p. 114, L 220, p. 40).

- Section 26, paragraph 1, points 13 to 15, each in conjunction with paragraph 4, point 1, and paragraph 5, sentence 1 of the *Allgemeines Eisenbahngesetz* (General Railway Act) of 27 December 1993 (BGBl. I, p. 2378, 2396, 1994 I, p. 2439), of which Section 26, paragraph 1, points 13 to 15, was inserted by Article 1, point 7(a) of the Act of 16 April 2007 (BGBl. I, p. 522) and Section 26, paragraph 4, by Article 1, point 16 of the Act of 21 June 2002 (BGBl. I, p. 2191):

Article 1

Verordnung über die Interoperabilität des transeuropäischen Eisenbahnsystems (Order on the Interoperability of the Trans-European Rail System)
(Transeuropäische-Eisenbahn-Interoperabilitätsverordnung (Trans-European Rail Interoperability Order) – TEIV)

Part 1

General provisions

Section 1

Scope

(1) This Order shall apply to the German part of the trans-European rail system shown in Annex 1, together with the infrastructures laid down therein and the rolling stock travelling on these infrastructures.

(2) This Order shall not apply to:

1. Railway infrastructure of service facilities or to rolling stock travelling exclusively on these infrastructures;
2. Railway infrastructures and rolling stock used exclusively for historical or tourism purposes.

Section 2

Definitions

For the purpose of this Order, the following definitions shall apply:

1. "Interoperability" means the ability of the trans-European rail system to allow the safe and uninterrupted movement of trains;
2. "Subsystems" means that the trans-European high-speed rail system is subdivided into structural or functional subsystems, as described in Annex II to Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ L 235, p. 6) and Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the conventional rail system (OJ L 110, p. 1), in each case last amended by Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 (OJ L 164, p. 114, L 220, p. 40);

3. "Interoperability constituents" means any elementary component, group of components, subassembly or complete assembly of equipment, including computer programs and other intangible objects, incorporated or intended to be incorporated into a subsystem;
4. "Essential requirements" means all the conditions set out in Annex III to Directives 96/48/EC and 2001/16/EC;
5. "Technical specifications for interoperability" (TSIs) means the specifications within the meaning of Chapter II of Directives 96/48/EC and 2001/16/EC by which each subsystem or part subsystem is covered in order to meet the essential requirements and to ensure interoperability;
6. "Notified bodies" means the bodies, within the meaning of Chapter V of Directives 96/48/EC and 2001/16/EC, which are responsible for assessing the conformity or suitability for use of the interoperability constituents or for appraising the EC procedure for verification of the subsystems;
7. "Upgrading" means work to modify a subsystem or part of a subsystem which changes the overall performance of the subsystem;
8. "Renewal" means work to replace a subsystem or part of a subsystem which does not change the overall performance of the subsystem;
9. "Maintenance-related replacement" means replacement of components by parts of identical function and performances in the context of predictive or corrective maintenance;
10. "Test runs" means runs for the practical testing of new technical or operating parameters of rolling stock and runs for the practical testing of the safe operation of rolling stock;
11. "Authorised representative" means a person assigned the task in a written declaration by the manufacturer of an interoperability constituent to act on his behalf with regard to specific obligations imposed upon him pursuant to this Order.

Section 3

Satisfaction of the essential requirements

The trans-European rail system, subsystems and interoperability constituents shall meet the relevant essential requirements.

Section 4

Technical specifications for interoperability

The technical specifications for interoperability (technical specifications) shall be applied in accordance with Annex 2. The application of technical specifications which are directly applicable Community law shall not be affected.

Part 2

**Issuing of authorisation
of putting into service**

Section 5

**Derogations from the application
of technical specifications**

(1) Derogations from the application of certain technical specifications may be authorised by the safety authority on written application:

1. for a proposed new line, for the renewal or upgrading of a line, or for rolling stock at an advanced stage of development or the subject of a contract in course of performance when these technical specifications are published;
2. for any proposed renewal, extension or upgrading of a line or rolling stock, when the application of the technical specifications would compromise the economic viability of the project and/or the compatibility of the rail system in the Federal Republic of Germany;
3. where, following an accident, including a terrorist attack or a natural disaster, the rapid restoration of the network is not economically reasonable or technically sensible in the case of partial or total application of the relevant technical specifications;
4. for wagons of the conventional part of the trans-European rail system which are also to be used in third countries with a different track gauge from the standard gauge.

(2) The application shall contain the following:

1. a description of the project including the planned implementation strategy and the technical and operational context of the project,
2. the designation of the technical specifications or the parts of the technical specifications that are not to be applied,
3. the designation of the provisions which are to be applied in their stead and
4. the reasons for the derogation applied for based on technical and economic criteria which refer to the existence of exceptional situations in accordance with paragraph 1.

The safety authority may require the application to be communicated electronically and in a specific file format.

(3) The safety authority shall notify the Commission of the application in accordance with Article 7, subparagraph 2, of the respectively applicable Directive 96/48/EC or 2001/16/EC.

(4) The decision of the safety authority shall be given in writing after the procedure in accordance with Article 7, subparagraph 2, in conjunction with Article 21 of the respectively applicable Directive 96/48/EC or 2001/16/EC has been completed. At the same time, a decision shall be taken on the regulations to be applied in their stead.

Section 6

Authorisation for putting

structural subsystems into service

(1) Putting a structural subsystem into service for the first time shall require authorisation (authorisation for putting into service), unless otherwise provided for in the applicable technical specifications. This shall apply irrespective of any previous assessment or approval of the project.

(2) The following may apply for the authorisation for putting into service:

1. railways pursuant to Section 2, paragraph 1 of the *Allgemeines Eisenbahngesetz* (General Railways Act),
2. rolling stock keepers or
3. manufacturers.

The written application and the necessary documents for verification shall be submitted in German.

(3) Where technical specifications in accordance with Section 4 are applicable to a structural subsystem, authorisation for putting into service shall be granted on production of proof of

1. an "EC" declaration of verification pursuant to Article 18 in conjunction with Annex V to the respectively applicable Directive 96/48/EC or 2001/16/EC, including the technical file, after a notified body has conducted an "EC" verification procedure pursuant to Annex VI to the respectively applicable Directive 96/48/EC or 2001/16/EC and has drawn up the certificate of conformity,
2. compliance with the other legal provisions which must be applied to satisfy the essential requirements,
3. the usability of the structural subsystem in the trans-European rail system and
4. compliance with the provisions to be observed in the case of the granting of a derogation pursuant to Section 5 instead of the technical specifications.

In the case of a structural subsystem for which the "EC" declaration of verification is presented together with the necessary documents and which does not meet the essential requirements in full despite a certificate of conformity having been granted, the safety authority may order the applicant to allow additional verifications to be carried out and has to present the results of these verifications before the authorisation is granted. The safety authority may also carry out the verifications provided for under sentence 2 itself under the conditions set out therein.

(4) If no technical specifications are yet applicable to a structural subsystem, the safety authority shall take the decision itself on the authorisation for putting into service on production of proof of compliance with the applicable legal provisions, insofar as they regulate the essential requirements, and the usability of the structural subsystem in the trans-European rail system.

(5) Where rolling stock has been granted authorisation for putting into service, no further acceptance or other approval under the law governing railways shall be required.

(6) Rolling stock not covered by the technical specifications may be used without authorisation for putting into service if they are authorised for public transport according to other provisions under the law governing railways.

(7) Trial runs shall require special authorisation. The authorisation can be applied for from those listed in paragraph 2, sentence 1, points 1 to 3 and shall be issued by the safety authority if proof is provided that through the trial runs the safety of the railway operation is not impaired.

(8) The safety authority shall take decisions on applications for the issue of an authorisation for putting into service without delay, but at the latest four months after submission of the documents necessary for the decision. If the safety authority establishes deficiencies concerning the documents submitted before the expiry of the time limit, it shall give the applicant the opportunity to remedy them. In the event referred to in sentence 2, the time limit shall be stayed until the deficiencies have been remedied.

(9) On first putting rolling stock into service, the holder of a authorisation for putting into service shall affix an alphanumeric identification code on the rolling stock in accordance with detailed instructions from the safety authority.

(10) The authorisation for putting into service and the special authorisation pursuant to paragraph 7 may be made subject to ancillary provisions, insofar as is necessary to ensure that the essential requirements are met or to ensure the safety of the rail transport operations.

Section 7

Simplified authorisation for putting into service for rolling stock of approved structure

(1) In respect of rolling stock to be produced or produced in series,

1. railways
2. rolling stock keepers or
3. manufacturers

may apply to the safety authority for general approval of the rolling stock series (type approval).

(2) The type approval shall be granted if authorisation for putting into service would have been granted for the prototype rolling stock examined. The type approval shall be limited to a period of validity of maximum five years. The type approval shall be extended on application; sentence 1 shall apply mutatis mutandis.

(3) The authorisation for putting into service shall be issued at the same time as the type approval for the prototype rolling stock.

(4) By way of derogation from Section 6, paragraphs 3 and 4, authorisation for putting into service for rolling stock of approved structure shall be granted on presentation of

1. the type approval and
2. a declaration by the applicant that the rolling stock conforms to the type approval.

Section 8

Simplified authorisation for putting into service for rolling stock with foreign authorisation for putting into service

(1) By way of derogation from Section 6, paragraphs 3 and 4, railway undertakings which have already obtained in another Member State or Switzerland a safety certificate within the meaning of Article 10(2)(b) of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 164, p. 44; OJ L 220, p. 16) and wish to provide rail transport services in Germany for rolling stock operated by them and already authorised for this purpose abroad, which is not regulated in full by technical specifications in respect of the essential requirements, shall by way of derogation from Section 6, paragraphs 3 and 4, be granted an authorisation for putting into service on production of evidence

1. that placing the rolling stock in service does not affect railway safety and
2. of the technical and operational compatibility of the rolling stock with the relevant operating conditions, especially with the energy supply system, the control command system and signalling, the track gauge, the clearance gauge, the load-bearing capacity of the track superstructure and the works.

(2) The authorisation for putting into service shall be applied for in writing. In addition to the foreign authorisation of the rolling stock, the documentation necessary to examine the application shall also be enclosed. Furthermore, information shall be required on the intended use, the history of operation and, where applicable, technical modifications undertaken after the authorisation.

(3) The safety authority may order test runs to verify whether the requirements pursuant to paragraph 1, points 1 and 2, are met. Section 6, paragraph 7, shall apply *mutatis mutandis*.

Section 9

Major upgrading and renewal of structural subsystems

(1) Major upgrading or renewal of a structural subsystem following replacement in the course of maintenance work shall require an authorisation for putting into service in accordance with Section 6, which shall be granted by the safety authority on application by the operator of the structural subsystem.

(2) Works envisaged on a structural subsystem or part of a structural subsystem following replacement in the course of maintenance work shall be notified in writing to the safety authority by the operator of the structural subsystem with a description of the works envisaged allowing the safety authority to assess the scope and extent of the works foreseen. If in this respect there is to be a derogation from the technical specifications, reasons shall be given for this. Receipt of the notification shall be confirmed in writing without delay to the notifier.

(3) Upgrading or renewal within the meaning of Annex 3 shall be considered to be major.

(4) Within ten weeks of receipt of the notification and the documentation necessary for examination, the safety authority shall decide, with due regard for the applicable technical specifications, by written communication whether upgrading or renewal is major and therefore requires authorisation for putting into service. If the safety authority establishes deficiencies concerning the documents submitted before the expiry of the time limit, it shall give the notifier the opportunity to remedy them. In the event referred to in sentence 2, the time limit according to sentence 1 shall be stayed until the deficiencies have been remedied.

(5) The notification shall be considered as an application for the issuing of the authorisation for putting into service if this is declared to be necessary in accordance with paragraph 4.

(6) In the case the envisaged upgrading or renewal of a structural subsystem, with the authorisation for putting into service, the safety authority shall at the same time decide whether and, where appropriate, which derogations from the application of certain technical specifications are admissible. Derogations shall be admissible in so far as this is proportionate and does not affect the safety of operation of the railway. A decision shall also be taken on the provisions to be applied instead of the technical specifications.

(7) The safety authority shall take a decision on the authorisation for putting into service within four months at the latest following the presentation of all necessary documents. The verification shall be confined to the part of the subsystem affected by the upgrading or renewal. If the safety authority establishes deficiencies concerning the documents submitted before the expiry of the time limit, it shall give the applicant the opportunity to remedy them. In the event referred to in sentence 3, the time limit according to sentence 1 shall be stayed until the deficiencies have been remedied.

Part 3

Interoperability constituents

Section 10

Placing on the market and use of interoperability constituents

(1) Interoperability constituents may be placed on the market only if

1. they comply with the relevant provisions of the technical specifications,
2. in accordance with the respective applicable technical specifications, they are subject to an assessment of conformity and, in so far as is necessary to prove that the essential requirements are met, of suitability for use,
3. an "EC" declaration of conformity has been granted and, insofar as is necessary as evidence that the essential requirements are met, through a declaration of suitability for use in accordance with Article 13(1) in conjunction with Annex IV to the respectively applicable Directive 96/48/EC or 2001/16/EC.

(2) The obligation to satisfy the requirements in accordance with paragraph 1 shall lie with the manufacturer of the interoperability constituent or his authorised representative established in the European Union. If a manufacturer who neither possesses a registered office in the European Union nor has an authorised representative established in the European Union does not satisfy the obligations according to sentence 1 or if the evidence that the

requirements according to paragraph 1 has not been produced for other reasons, the obligation shall be met by the person who wishes to place the interoperability constituents on the market.

(3) Railways and keepers of rolling stock shall ensure that interoperability constituents are suitably installed, used as intended and maintained on schedule.

(4) Insofar as the technical specifications do not contain exhaustive regulations to ensure that the essential requirements are satisfied in the German part of the trans-European rail system, the railways and keepers of rolling stock shall ensure compliance with the applicable legal provisions.

(5) Paragraphs 1 to 4 shall apply *mutatis mutandis* to assembled interoperability constituents within the meaning of Article 13(4), sentence 2, of the respectively applicable Directive 96/48/EC or 2001/16/EC for the manufacture for own use and in the case of interoperability constituents already placed on the market or major changes in their use.

Section 11

Failure to meet the essential requirements

(1) Where the safety authority takes measures pursuant to Section 5a of the *Allgemeines Eisenbahngesetz* (General Railway Act) because an interoperability constituent does not meet the essential requirements, it shall carry out the procedure in accordance with Article 12(1), sentence 2, and paragraph 2 of the respectively applicable Directive 96/48/EC or 2001/16/EC and shall inform the Commission and the other Member States without delay.

(2) If facts become known to the supervisory authority competent under regional law indicating that the essential requirements are not met by an interoperability constituent, it shall inform the safety authority of this which shall proceed in accordance with paragraph 1.

Part 4

Obligations of the railways, keepers of rolling stock and manufacturers

Section 12

Obligations of the railways and the keepers of rolling stock

During the operation of subsystems, railways and the keepers of rolling stock shall ensure that

1. the structural subsystems they operate permanently meet the requirements arising from the technical specifications and legal provisions applicable on the granting of the authorisation for putting into service,
2. an infrastructure list or rolling stock list in accordance with the applicable technical specifications is drawn up and updated annually and published on their Internet site, the address of the Internet site is announced in the *Bundesanzeiger* (Federal Gazette) and these lists, following their drawing up and after each update, are communicated to the safety authority in one of the electronic file formats defined by the latter.

Section 13

Obligations to cooperate

(1) If, within the territory of the Federal Republic of Germany

1. railways or keepers of rolling stock with their registered office within the country or
2. manufacturers of interoperability constituents or structural subsystems with their registered office within the country

find that a body notified by another Member State of the European Union does not comply with the provisions of Article 20(4) in conjunction with Annex VII to the respectively applicable Directive 96/48/EC or 2001/16/EC or does not meet the obligations associated with the responsibility, the Federal Railway Authority shall be informed. The Federal Railway Authority shall inform the Commission of this.

(2) Paragraph 1, sentence 1, shall apply mutatis mutandis insofar as the persons subject to the obligation have reason to believe that a German notified body fails to meet the provisions of Article 20(4) in conjunction with Annex VII to the respectively applicable Directive 96/48/EC or 2001/16/EC.

Section 14

Document retention obligations

(1) Any person who has received an authorisation for putting into service in accordance with the provisions of part 2 of this Order shall be required to retain the authorisation for putting into service and the evidence necessary to obtain the authorisation for putting into service for as long as the subsystem can serve its intended use. If he disposes of the approved structural subsystem, the documents shall be handed over with it. Sentence 1 shall apply mutatis mutandis for the acquirer of the subsystem.

(2) Modification work on a subsystem or part of a subsystem which is not major shall be documented. Paragraph 1 shall apply mutatis mutandis.

Part 5

Notified bodies

Section 15

Tasks of the notified bodies

(1) Notified bodies shall, on written application,

1. assess the conformity and suitability for use of interoperability constituents in accordance with Article 13(2) in conjunction with point 2 of Annex IV to the respectively applicable Directive 96/48/EC or 2001/16/EC and in accordance with the applicable technical specifications and in the case of evidence of conformity and, where appropriate, suitability for use, draw up an examination certificate,

2. carry out the "EC" verification of subsystems in accordance with Article 18 in conjunction with Annex VI to the respectively applicable Directive 96/48/EC or 2001/16/EC and in accordance with the applicable technical specifications and in the case of evidence of conformity and, where appropriate, suitability for use, draw up a examination certificate in accordance with point 3 of Annex VI to the respectively applicable Directive 96/48/EC or 2001/16/EC and the technical file pursuant to Article 18(3) in conjunction with point 4 of Annex VI to the respectively applicable Directive 96/48/EC or 2001/16/EC and to add it to the examination certificate.

(2) The documents necessary for proof of conformity and, where appropriate, suitability for use shall be enclosed with the application.

(3) The notified body shall suspend or withdraw a examination certificate if the conditions for establishing it are no longer met.

(4) The notified bodies shall periodically publish the information provided for in point 7 of Annex VI to Directives 96/48/EC and 2001/16/EC. Personal and operational data may not be published. It shall be ensured that trade secrets are kept.

Section 16

Subcontracting

(1) A notified body may have recourse to third parties to carry out parts of the "EC" verification procedure and the conformity and suitability for use procedure (subcontractors). The subcontractor must possess the necessary competence and reliability to carry out the work assigned to him suitably.

(2) The notified body shall keep a list of all its subcontractors and update it on an ongoing basis.

Section 17

Other obligations of the notified bodies

(1) If a German notified body has reason to believe that another notified body does not meet the criteria of Article 20(3) in conjunction with Annex VII to Directive 96/48/EC, it shall inform the Federal Railway Authority without delay.

(2) A notified body shall inform the notified bodies nationally and in the other Member States and the supervisory and authorisation authorities of all examination certificates which it has suspended, withdrawn or rejected and of the underlying reasons for this.

(3) The notified bodies shall communicate to the supervisory authorities of other Member States all the information necessary to carry out railway supervision.

(4) The notified bodies shall cooperate with the coordination group pursuant to Article 20(5) of Directives 96/48/EC and 2001/16/EC.

Section 18

Transfer procedure for notified bodies

(1) The application for transfer of the tasks of a notified body shall be addressed in writing to the Federal Railway Authority. If the latter provides for standards or forms, these shall be used.

(2) The transfer shall be made by written decision showing the nature and scope of the verification competence of the notified body. The Commission shall be informed of this.

Section 19

Withdrawal, cancellation

(1) The transfer of the tasks of a notified body shall be withdrawn if it becomes known that the criteria listed in Annex VII to Directive 96/48/EC were not met.

(2) The transfer of the tasks of a notified body shall be cancelled if subsequently the conditions for transfer have lapsed. The Commission shall be informed of this.

(3) The provisions under the law governing administrative procedures on withdrawal and calculation shall be unaffected.

Part 6

Register of rolling stock

Section 20

Content of the register of rolling stock

(1) The register of rolling stock shall contain the following information:

1. the alphanumerical rolling stock code assigned pursuant to Section 6, paragraph 9,
2. the "EC" declaration of verification and the name and address of the issuing body,
3. the name and business address of the keeper of the rolling stock and the owner of the rolling stock,
4. operating restrictions with regard to the technical or territorial usability of the rolling stock, insofar as these are shown in the authorisations or other measures by the authorities,
5. the maintenance schedule for the rolling stock and
6. the information arising from the respective applicable technical specifications.

(2) New rolling stock shall be entered in the register without delay once the authorisation for putting into service has been granted.

(3) Railways and keepers of rolling stock shall communicate to the registration authority the necessary information in accordance with paragraph 1 concerning their rolling stock already

in operation on 14 July 2007 in a format determined by the registration authority by 1 August 2008. The registration authority shall enter this in the register without delay.

(4) Railways and keepers of rolling stock shall be required to notify the registration authority without delay of changes of the information entered in the register and of scrapings concerning their rolling stock. The registration authority shall undertake the necessary changes in the register of rolling stock.

(5) The information contained in the register of rolling stock shall be deleted one year at the latest following the scrapping of the rolling stock.

Section 21

Access to the register of rolling stock

(1) At the request of the investigation authority pursuant to Section 5, paragraph 1f of the *Allgemeines Eisenbahngesetz* (General Railway Act) or a safety authority or investigation body within the meaning of Directive 2004/49/EC of another Member State, the registration authority shall transmit to the latter the information stored in the register of rolling stock insofar as this is necessary for the activity of the requesting body.

(2) On the application of the regulatory body within the meaning of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 75, p. 29), last amended by Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways (OJ L 164, p. 44; L 220, p. 16), the European Railway Agency, railways, keepers or owners rolling stock, the registration authority shall provide information from the register of rolling stock if the applicant shows credibly a justified interest and there are no grounds for the assumption that the person concerned has a predominant legitimate interest in the exclusion of the information.

Part 7

Final provisions

Section 22

Administrative offences

(1) A person shall be in breach of the regulations within the meaning of Section 28, paragraph 1, point 6(a) of the *Allgemeines Eisenbahngesetz* (General Railways Act) who, intentionally or negligently

1. puts a structural subsystem into service or undertakes major upgrading or major renewal without authorisation pursuant to Section 6, paragraph 1, sentence 1 or Section 9, paragraph 1, sentence 1,
2. contrary to Section 10, paragraph 1, places a constituent referred to there on the market.

(2) A person shall be in breach of the regulations within the meaning of Section 28, paragraph 1, point 6(b) of the *Allgemeines Eisenbahngesetz* (General Railways Act) who, intentionally or negligently, as a person responsible in the undertaking

1. contravenes a provision of Section 12, point 2, concerning a safety obligation referred to there or
2. contrary to Section 14, paragraph 1, sentence 1, fails to keep, or fails to keep for the prescribed period, the authorisation for putting into service or evidence referred to there.

Annex 1
(relating to Section 1)

Coverage of the Order

High-speed railway lines
Planned high-speed railway lines
Upgraded lines for high-speed trains
Conventional lines
Planned conventional lines
New technologies

Kilometres

Annex 2

(relating to Section 4)

Implementation of Commission Decisions on the technical specifications for interoperability (TSIs)

1. Infrastructure subsystem

High-speed rail system

- a) Commission Decision 2002/732/EC of 30 May 2002 concerning the TSI relating to the infrastructure subsystem (OJ L 245, p. 143; L 275, p. 5) applies to the infrastructure of the high-speed rail system.
- b) The "Infrastructure" TSI also applies to construction projects which, on commissioning the structural subsystem, are not yet equipped for use at speeds greater than 200 kilometres/hour, if the applicant requires the application.
- c) Requirements of the "Infrastructure" TSI on platform design are also to be met in stations and halts which do not lie directly on the tracks open to trains travelling at 200 kilometres/hour, insofar as trains of the high-speed rail system are scheduled to stop at them.
- d) Insofar as the Railway Construction and Operating Regulations contain far-reaching requirements concerning compliance with the essential requirements, these are decisive.

2. Rolling stock subsystem

2.1 High-speed rail system

Commission Decision 2002/735/EC of 30 May 2002 concerning the "Rolling Stock" TSI (OJ L 245, p. 402; L 275, p. 13) is applicable to linked rolling stock of the high-speed rail system referred to in the TSI as trains which in each case are designed for speeds of at least 200 kilometres/hour and are not separated as an operational unit.

2.2 Conventional rail system

- a) Commission Decision 2006/66/EC of 23 December 2005 concerning the "rolling stock - noise" TSI (OJ 2006 L 37, p. 1) is applicable to power units, coaches and wagons.
- b) Commission Decision 2006/861/EC of 28 July 2006 concerning the "rolling stock - freight wagons" TSI (OJ L 344, p. 1) is applicable to freight wagons.

3. Energy subsystem

High-speed rail system

Commission Decision 2002/733/EC of 30 May 2002 concerning the "Energy" TSI (OJ L 245, p. 280; L 275, p.8) is applicable to

- a) fixed installations of the railway energy supply for electric traction,
- b) pantographs of the rolling stock of the high-speed rail system and

c) the interaction between overhead contact line and pantograph.

4. Command control and signalling subsystem

4.1 High-speed rail system

Commission Decision 2002/731/EC of 30 May 2002 concerning the "Control-command and signalling" TSI (OJ L 245, p. 37; L 275, p. 3), amended by Commission Decision 2004/447/EC of 29 April 2004 (OJ L 155, p. 69; L 193, p. 53) and Commission Decision 2006/860/EC of 7 November 2006 concerning the "Control-command and signalling" TSI (OJ L 243, p. 1) is applicable to the maintenance of infrastructure and rolling stock of trains of the high-speed rail system.

4.2 Conventional rail system

Commission Decision 2006/679/EC of 28 March 2006 concerning the "Control-command and signalling" TSI (OJ L 284, p. 1), last amended by Commission Decision 2006/860/EC of 7 November 2006 concerning the "Control-command and signalling" TSI (OJ L 243, p. 1) is applicable to the infrastructure and rolling stock of trains of the conventional rail system.

5. Transport operation and control subsystem

5.1 High-speed rail system

Commission Decision 2002/734/EC of 30 May 2002 concerning the "Operation" TSI (OJ L 245, p. 370; L 275, p. 11) is applicable to the management in the high-speed rail system.

5.2 Conventional rail system

Commission Decision 2006/920/EC of 11 August 2006 concerning the "Traffic Operation and Management" TSI is applicable to the management in the conventional rail system.

6. Maintenance subsystem

High-speed rail system

Commission Decision 2002/730/EC of 30 May 2002 concerning the "Maintenance" TSI (OJ L 245, p. 1; L 275, p. 1) is applicable to the maintenance of facilities and rolling stock of the trans-European high-speed rail system.

Annex 3

(relating to Section 9, paragraph 3)

Measures to be classified as major renewals or upgrades

Generally speaking, renewals or upgrades are considered to be major if the project costs, or in the case of infrastructure measures the construction costs, exceed EUR 1 million.

Measures involving project or construction costs of less than EUR 0.4 million do not constitute major renewals or upgrades.

In addition, the following measures are considered to be major renewals or upgrades:

A. Infrastructure subsystem

The following are considered as major upgrades or renewals:

1. Changes to lines and tracks laid in stations or lines to processing facilities and storage sidings and changes to train formation facilities, where more than 400 m of track or more than two points are affected;
2. Changes to intermodal transport terminals (facilities and tracks) which increase the handling capacity by more than 10%;
3. Renewal of bridges, superstructures or abutments;
4. Structural measures in underground stations which arise from a changed fire protection concept;
5. Increase in speed by at least 10% through:
 - 5.1 change to the layout or distance between track centres,
 - 5.2 change to safety of level crossings,
 - 5.3 fitness for the use by tilting rolling stock
6. Increase in the load-bearing capacity or the superstructure and works above 225 kN (22.5 t) by:
 - 6.1 installation of protective layers or base courses,
 - 6.2 renewal of superstructures,
 - 6.3 change to the type of track superstructure system.

B. Energy subsystem

The following are considered as major upgrades or renewals:

1. Measures to overhead contact lines which extend for more than one tension length per track;
2. Measures to feeding system relating to a supply section or a substation, if the

- 2.1 type of supply (centralised or decentralised),
- 2.2 the voltage,
- 2.3 the frequency,
- 2.4 the protective function (including interface to rolling stock) is changed or
- 2.5 the performance is increased by more than 35%.

C. Command control and signalling subsystem

The following are considered as major upgrades or renewals:

1. Measures within other subsystems listed in this Annex, on the basis of which the projection and system data of interoperability constituents and other safety systems (e.g. interlocking) must be changed;
2. Functional changes to line or station safety installations and rolling stock installations
 - 2.1 in connection with an advanced ETCS specification;
 - 2.2 in which risk acceptance values of an approved risk analysis are exceeded;
 - 2.3 to class B systems according to a TSI listed in point 4 of Annex 2 which affects the notified requirements of these technologies;
 - 2.4 to certified subsystems, through which an update of the safety and function analyses becomes necessary;
 - 2.5 to safety systems (e.g. interlocking) which invalidate previous coherence testing with regard to existing safety and function analyses.

D. Rolling stock subsystem

The following are considered as major upgrades or renewals

1.
**** TO BE COMPLETED LATER

Article 2

Verordnung über die Sicherheit des Eisenbahnsystems **(Order on Safety of the Railway System)** ***(Eisenbahn-Sicherheitsverordnung (Railway Safety Order) – EsiV)***

Section 1

Scope

This Order shall apply to standard gauge public railways, insofar as they do not operate regional networks or service facilities or are regional railways.

Section 2

Definitions

For the purpose of this Order, the following definitions shall apply:

1. "Safety rules" means all rules containing requirements to ensure safety on the railways and applying to more than one railway, irrespective of which body lays down these rules;
2. "Technical specifications for interoperability" (TSIs) means the specifications within the meaning of Chapter II of Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ L 235, p. 6) and Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the conventional rail system (OJ L 110, p. 1), in each case last amended by Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 (OJ L 164, p. 114; L 220, p. 40) by which each subsystem or part subsystem is covered in order to meet the essential requirements and to ensure interoperability.

Section 3

Safety rules

(1) The Federal Ministry of Transport, Building and Urban Affairs shall notify the Commission of all safety rules established before 14 July 2007 and subsequently within the meaning of Annex II to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 164, p. 44; L 220, p. 16), indicating their area of application.

(2) Railways shall notify the safety authority in writing without delay of any amendment to the safety rules within the meaning of Annex II to Directive 2004/49/EC which they have established and already notified pursuant to paragraph 1. Sentence 1 shall apply *mutatis mutandis* for the notification of safety rules adopted by the Länder as regulations or administrative provisions.

(3) The Federal Ministry of Transport, Building and Urban Affairs shall notify the Commission without delay of any amendment to the safety rules already notified in

accordance with paragraph 2, unless the rule is wholly relating to the implementation of technical specifications for interoperability.

(4) As soon as the common safety targets within the meaning of Article 1(e) of Directive 2004/49/EC have been adopted following a procedure in accordance with Article 7 of Directive 2004/49/EC, a railway may not establish and implement a new safety rule which exceeds the safety requirements arising from the common safety targets

1. until the procedure for this purpose pursuant to Article 8(6) and (7) of Directive 2004/49/EC (EC participation procedure) has been completed or
2. if the Commission decision on this subject is unfavourable.

The railway shall submit the draft safety rule to the safety authority. The latter shall send it via the Federal Ministry of Transport, Building and Urban Affairs to the Commission and shall inform the railway of the outcome of the EC participation procedure.

Section 4

Application for safety certificates and safety authorisations

(1) Applications for the issuing of safety certificates and safety authorisations shall be submitted in German.

(2) The safety authority shall make guidelines for the submission of applications available to applicants free of charge, explaining the requirements for safety certificates and safety authorisations and listing the documents to be submitted.

Section 5

Obligations to inform

(1) Following the revocation of a national certificate within the meaning of Section 7a, paragraph 4, of the *Allgemeines Eisenbahngesetz* (General Railway Act), the safety authority shall without delay inform the safety authority of the other Member State which has issued the safety certificate on which the national certificate is based of its decision.

(2) The safety authority shall inform the European Railway Agency (Agency) within one month of the issue, renewal, amendment or revocation of safety certificates referred to in Section 7a, paragraph 2, point 1 and of safety authorisations referred to in Section 7c, paragraph 2, point 1 in conjunction with Section 7b of the *Allgemeines Eisenbahngesetz* (General Railway Act). The communication shall state the name and address of the railway undertaking, the issue date, scope and validity of the safety certificate or safety authorisation and, in case of revocation, the reasons for this.

Section 6

Safety report

Railways needing a safety certificate or safety authorisation shall be required to submit to the safety authority before 30 June each year a written safety report in accordance with sentence 2 relating to the preceding calendar year. The safety report shall contain:

1. information on how in relation to the undertaking concerned the targets for the maintenance and enhancement of safety within the meaning of point 2(b) of Annex III to Directive 2004/49/EC are met and the plans referred to there for reaching these targets;
2. the development of the common safety indicators as laid down in Annex I to Directive 2004/49/EC in relation to the undertaking concerned;
3. the results of the internal safety auditing;
4. observations of dangerous incidents in railway operations which were investigated by the investigation authority competent for the investigation of serious accidents in railway operation and the measures taken as a result.

Section 7

Annual report

(1) Each year the safety authority shall publish an annual report concerning its activities in the preceding year and send it to the Agency by 30 September each year at the latest.

(2) The report shall contain information on:

1. the development of railway safety, including an aggregation of the common safety indicators laid down in Annex I;
2. important changes in legislation and administrative provisions concerning railway safety;
3. the enforcement of the provisions on safety certification and safety authorisation in general and
4. the carrying out of railway safety in general.

Section 8

Administrative offences

A person shall be in breach of the regulations within the meaning of Section 28, paragraph 1, point 6(b) of the *Allgemeines Eisenbahngesetz* (General Railways Act) who, intentionally or negligently, as a person responsible in the undertaking, contrary to Section 6, sentence 1, fails to submit the safety report or submits an incorrect, incomplete or late report.

Article 3

**Verordnung über die Untersuchung gefährlicher Ereignisse im Eisenbahnbetrieb
(Order on the investigation of dangerous incidents in rail transport operations)
(Eisenbahn-Unfalluntersuchungsverordnung
(Railway Accident Investigation Order – EUV))**

Section 1

Scope

This Order shall apply to the investigation of dangerous incidents in rail transport operations, in so far as this is the responsibility of the Federal Government.

Section 2

Obligation to investigate and to report

(1) The purpose of the investigation of dangerous incidents in rail transport operations shall be to determine the causes, with a view to prevention of dangerous incidents and improvement of railway safety.

(2) The competent investigation authority shall carry out investigations after serious accidents in rail transport operations. In other cases, it may carry out investigations.

(3) Railway infrastructure undertakings shall report all dangerous incidents in rail transport operations to the Federal Railway Authority without delay. The investigation authority may lay down a specific form for reporting.

(4) The railways shall make available all information necessary for the investigation to the investigation authority.

Section 3

Cooperation with other Member States, the Agency and the Länder

(1) If a railway undertaking with its registered office in another Member State is involved in a dangerous incident, the investigation authority of this Member State shall be notified by the competent investigation authority and it shall be permitted to cooperate in the investigation. Furthermore, cooperation of the investigatory body of another Member State in an investigation may occur if the dangerous incident cannot be clearly allocated to home or abroad or has occurred on the border.

(2) If the investigation authority competent for the investigation of serious accidents carries out an investigation, it shall inform the European Railway Agency (Agency) of this within one week of the start of the investigation. This notification shall state the date, time and place of the incident and the nature and consequences in terms of deaths, injuries and material damage.

(3) If a dangerous incident has occurred on a non-federally-owned railway infrastructure, the competent authorisation authority of the Land shall be informed of this without delay. The investigation shall be conducted in agreement with it.

Section 4

Measures at the accident site

(1) Railway infrastructure undertakings shall be required to secure the accident site without delay and to cordon off access to unauthorised persons. The staff members of the competent

investigation authority (investigator-in-charge) shall decide in agreement with the law enforcement agency, on access to the cordoned off accident site and on the opening up of the accident site, the rolling stock and their components and the cargo.

(2) The accident site, traces of the accident, rolling stock, rolling stock components and other content of the rolling stock may not be touched or changed until opening up by the investigator-in-charge.

(3) The following shall not be affected by paragraphs 1 and 2

1. measures by the rescue and emergency services,
2. measures to prevent an immediately threatening danger,
3. extinguishing measures.

Section 5

Investigation report

(1) The investigation authority competent for the investigation of serious accidents shall keep the public informed regularly of its investigations of serious accidents or other dangerous incidents which could have led to dangerous accidents.

(2) The investigation authority competent for the investigation of serious accidents shall draw up an investigation report. The investigation report shall consider the prescriptive conditions set out in Annex V to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 164, p. 44; L 220, p. 16) and shall contain the safety recommendations made in connection with the investigation.

(3) Information in the investigation report which may be detrimental to the interests of internal or external safety shall be contained exclusively in a separate section of the report.

(4) The investigation authority competent for the investigation of serious accidents may point out

1. in writing to the railways, keepers, manufacturers, safety authority and emergency services and
2. by announcement on its Internet site to victims and their relatives and owners of damaged property, including their authorised representatives

that they may request the draft investigation report in writing, with the exception of the separate section of the report within the meaning of paragraph 3, and may comment in writing on the facts and conclusions relevant to establishing the causes within an appropriate period to be established by the competent investigation authority.

(5) The investigation report pursuant to paragraph 1 shall be completed within one year of the dangerous incident and shall be forwarded to the Agency. Parties concerned within the meaning of paragraph 4, point 1, shall be sent the report without the separate section of the

report. The report shall also be published without the separate section on the Internet site of the investigation authority competent for the investigation of serious accidents.

Section 6

Safety recommendations

(1) The investigation authority competent for the investigation of serious accidents may issue safety recommendations at any time. These shall contain the measures necessary according to the findings obtained during the investigation of serious accidents in order to improve railway safety and to prevent dangerous incidents.

(2) The safety recommendations shall be addressed to the safety authority and, insofar as is necessary, to other bodies or authorities or to other Member States of the European Community. The safety authority shall ensure, within its powers, that the safety recommendations addressed to it, including those of other Member States, are observed and as far as necessary implemented. The national addressees of safety recommendations shall report back to the investigation authority competent for the investigation of serious accidents before 31 August each year on the measures taken or planned on the basis of the safety recommendations. In the event of a safety recommendation made by another Member State, sentence 3 shall apply with the proviso that the safety authority reports back on this.

Section 7

Annual report

(1) Each year, the investigation authority competent for the investigation of serious accidents shall publish by 30 September at the latest a report on the previous year's investigations carried out, safety recommendations made and measures carried out on the basis of earlier safety recommendations.

(2) Each year, the investigation authority competent for the investigation of serious accidents shall forward a copy of the annual report to the Agency.

Section 8

Retention periods

Technical documents on the investigation of dangerous incidents involving deaths shall be retained by the investigation authority for at least 30 years; technical documents on the investigation of other dangerous incidents shall be retained for at least 20 years. The deadline according to sentence 1 shall start on completion of the procedure.