



2024/851

11.3.2024

COUNCIL DECISION (EU) 2024/851

of 4 March 2024

on the position to be taken on behalf of the European Union at the 12th session of the Preparatory Commission for the establishment of the International Registry for Railway Rolling Stock and at the first session of the Supervisory Authority established pursuant to the Luxembourg Protocol to the Convention on International Interests in Mobile Equipment on Matters specific to Railway Rolling Stock

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Union, in respect of its competences, approved the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock (the 'Luxembourg Protocol'), adopted in Luxembourg on 23 February 2007, by means of Council Decision 2014/888/EU ⁽¹⁾, and acquired the status of a Regional Economic Integration Organisation under that Protocol.
- (2) During its first session on 8 March 2024, the Supervisory Authority established pursuant to Article XII of the Luxembourg Protocol (the 'Supervisory Authority') is expected, among other agenda items, to adopt its Statutes and Rules of Procedure, an agreement between the Supervisory Authority and the Intergovernmental Organisation for International Carriage by Rail (OTIF) regarding the functions of the Supervisory Authority's secretariat, and other acts pertaining to the setting up and functioning of the International Registry for Railway Rolling Stock (the 'International Registry') in accordance with Article 17(2), point (d), of the Convention on International Interests in Mobile Equipment (the 'Cape Town Convention'), in particular the regulations and procedures of the International Registry and the Model Rules on Permanent Identification of Railway Rolling Stock developed in the framework of the Inland Transport Committee of the United Nations Economic Commission for Europe (the 'Model Rules').
- (3) During its 12th session on 7 March 2024, the Preparatory Commission for the establishment of the International Registry is expected to consider and approve the final draft of the acts to be adopted by the first session of the Supervisory Authority.
- (4) It is appropriate to establish the position to be taken on the Union's behalf at the 12th session of the Preparatory Commission and at the first session of the Supervisory Authority, as the Union is a Contracting Party to the Luxembourg Protocol and the decisions to be taken by the Supervisory Authority may lead to the adoption of acts which are binding under international law and capable of decisively influencing the participation of the Union in that body and the content of Union law, namely Directive (EU) 2016/797 of the European Parliament and of the Council ⁽²⁾, Regulation (EU) 2016/796 of the European Parliament and of the Council ⁽³⁾, Commission Decision 2012/757/EU ⁽⁴⁾ and Commission Implementing Decision (EU) 2018/1614 ⁽⁵⁾.

⁽¹⁾ Council Decision 2014/888/EU of 4 December 2014 on the approval, on behalf of the European Union, of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock, adopted in Luxembourg on 23 February 2007 (OJ L 353, 10.12.2014, p. 9).

⁽²⁾ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

⁽³⁾ Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

⁽⁴⁾ Commission Decision 2012/757/EU of 14 November 2012 concerning the technical specification for interoperability relating to the 'operation and traffic management' subsystem of the rail system in the European Union and amending Decision 2007/756/EC (OJ L 345, 15.12.2012, p. 1).

⁽⁵⁾ Commission Implementing Decision (EU) 2018/1614 of 25 October 2018 laying down specifications for the vehicle registers referred to in Article 47 of Directive (EU) 2016/797 of the European Parliament and of the Council and amending and repealing Commission Decision 2007/756/EC (OJ L 268, 26.10.2018, p. 53).

- (5) The draft Statutes of the Supervisory Authority define, inter alia, its legal personality, tasks and administrative framework, as required by the Cape Town Convention and by the Luxembourg Protocol. The adoption of the draft Statutes is a prerequisite for the setting up and operation of the Supervisory Authority and should therefore be supported. A minor amendment should be proposed to the provision defining the composition of the Supervisory Authority to clarify the cross reference to the relevant provisions of the Luxembourg Protocol, namely Article XII(1).
- (6) The draft Rules of Procedure of the Supervisory Authority define, inter alia, meeting rules, representation rules, proposals and decisions and voting procedures. The current draft Rules of Procedure are not however in line the provisions of the Luxembourg Protocol which recognise the status of Regional Economic Integration Organisations as equivalent to that of a State Party as they introduce unjustified distinctions between, on the one hand, State Parties per se, which are entitled to be represented and to vote on decisions to be taken by the Supervisory Authority, and, on the other hand, Regional Economic Integration Organisations, which are not expressly referred to as members of the Supervisory Authority. It is therefore necessary to propose amendments to those draft Rules of Procedure to ensure that the Union's membership and voting rights within the Supervisory Authority are effectively provided for in accordance with the provisions of the Luxembourg Protocol, including rules on voting concerning matters falling under the scope of the Union's exclusive competence. The remaining provisions of the draft Rules of Procedure should however be supported.
- (7) In accordance with Article XII(6) of the Luxembourg Protocol, it is for OTIF to take on the role of the Secretariat of the Supervisory Authority once the Protocol enters into force. The envisaged agreement between the Supervisory Authority and OTIF sets out the detailed conditions for performing the tasks of the Secretariat of the Supervisory Authority. The adoption of that agreement is necessary for ensuring the good administration of the works of the Supervisory Authority and should therefore be supported.
- (8) Pursuant to Article 17 of the Cape Town Convention and Article XII of the Luxembourg Protocol, the Supervisory Authority is to provide for the establishment of the International Registry. It is also to ensure that an efficient notice-based electronic registration system exists to implement the objectives of the Cape Town Convention and of the Luxembourg Protocol, through the establishment, review and amendment, where necessary, of regulations and procedures for the International Registry. Those regulations and procedures are to be established by the Supervisory Authority pursuant to Article 17(2), points (d) and (e), of the Cape Town Convention and in accordance with Articles XIV, XV, XVI and XVII of the Luxembourg Protocol. They are needed to provide the legal framework for the operation of the International Registry, in particular with regard to the request and allocation of the Unique Rail Vehicle Identification System (URVIS) identifier. Within the Union, the registration and identification of railway rolling stock is also regulated through Directive (EU) 2016/797 and Implementing Decision (EU) 2018/1614, which provide, inter alia, specifications for a European Vehicle Number (EVN) and for a European Vehicle Register (EVR). Although the systems under Union law and under the Luxembourg Protocol deal with the same topical issue of railway rolling stock identification and registration, they have different aims and purposes, namely operational (technical) for the former and financial for the latter. As a result, the provisions do not currently conflict with each other, and the two systems may co-exist. The Union should therefore be able to pursue an enduring complementarity between those registers and identification systems. As the adoption of those regulations and procedures is necessary for ensuring the operation of the International Registry and as they are compatible and consistent with the Union's legal framework, their adoption by the Supervisory Authority should be supported.
- (9) To achieve its goal, the Luxembourg Protocol needs to rely on a clear identification and marking system of railway rolling stock based on international standards. The envisaged Model Rules provide a framework for the assignment of the URVIS identifier and its marking on railway rolling stock. According to the Model Rules, the URVIS identifier marking is additional to any other existing marking system such as the system set out in Decision 2012/757/EU. The Model Rules do not conflict with the legal framework of the Union. It is therefore appropriate to support their adoption by the Supervisory Authority,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on the Union's behalf at the 12th session of the Preparatory Commission for the establishment of the International Registry for Railway Rolling Stock and at the first session of the Supervisory Authority of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock is set out in the Annex to this Decision.

Minor changes to the positions expressed in that Annex may be agreed by the representatives of the Union at the Preparatory Commission and at the Supervisory Authority without further decision of the Council.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 4 March 2024.

For the Council

The President

T. VAN DER STRAETEN

ANNEX

1. Introduction

The first session of the Supervisory Authority of the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Railway Rolling Stock adopted in Luxembourg on 23 February 2007 ('Luxembourg Protocol') will take place on 8 March 2024, back-to-back with the 12th and last session of the Preparatory Commission that will take place on 7 March 2024.

2. EU Competence

The European Union is a contracting party to the Luxembourg Protocol. In respect of this meeting's agenda items where the Supervisory Authority will be called upon to adopt acts having legal effects within the meaning of Article 218(9) TFEU – namely Agenda Items 3 (to the extent that it concerns the approval of the Statutes and Rules of Procedure of the Supervisory Authority), 4, 8 and 9, the European Union has exclusive competence.

3. Comments on agenda items of the 1st session of the Supervisory Authority

Agenda Item 3 – Establishment of the Supervisory Authority (to be considered under Agenda Item 5 of the 12th session of the Preparatory Commission):

Approval of the Statutes of the Supervisory Authority

Document(s):	
Exercise of voting rights:	European Union
Position:	In favour of the approval and adoption of the draft Statutes, subject to the following amendment: — In Article 2 (Composition): amend paragraph 2 to read: "Its membership is determined in accordance with Article XII (1) (a), (b) and (c) of the Protocol".

Establishment of the Rules of Procedure of the Supervisory Authority

Document(s):	
Exercise of voting rights:	European Union
Position:	In favour of the approval and adoption of the draft Rules of Procedures, subject to the following amendments: — In Article 1 (Definitions): amend the definition of 'Qualified Majority' to read "for the first two years after entry into force of the Protocol, a simple majority of the votes of both (a) representatives of State Parties and (b) Members, and thereafter a two thirds majority of the votes of Members"; and amend the definition of 'State Party' to read "a State or a Regional Organization which has ratified or acceded both to the Convention and the Protocol"; — In Article 4 (Representation of Members): amend paragraph 3 to read "By way of derogation to paragraph 1, the person nominated to represent a Regional Organization may exercise, in any meetings of the Supervisory Authority, a number of votes equal to the number of its Member States which are entitled to participate and vote in such meetings. Whenever a Regional Organization exercises its right to vote, its Member States shall not exercise theirs, and conversely."

Agenda Item 4 – Approval of the Agreement between the Supervisory Authority and OTIF concerning the functions of the Secretariat (to be considered under Agenda Item 5 of the 12th session of the Preparatory Commission)

<i>Document(s):</i>	
<i>Exercise of voting rights:</i>	European Union
<i>Position:</i>	In favour of the approval of the Agreement

Agenda Item 8 – Approval of the Regulations and Procedures for the International Registry for Railway Rolling Stock and their publication (to be considered under Agenda Item 6 of the 12th session of the Preparatory Commission)

<i>Document(s):</i>	
<i>Exercise of voting rights:</i>	European Union
<i>Position:</i>	In favour of the approval of the Regulations and Procedures, and their publication

Agenda Item 9 – Approval of the Model Rules as amended on 15 November 2023 for the purposes of the Regulations for the International Registry for Railway Rolling Stock

<i>Document(s):</i>	
<i>Exercise of voting rights:</i>	European Union
<i>Position:</i>	In favour of the adoption of the Model Rules on Permanent Identification of Railway Rolling Stock