

PRIME – RUD

Train Driver's Directive (TDD) – Language Derogations

Brussels, 28th March 2017

Monika Heiming
Executive Director EIM aisbl

1. What does EU legislation say ?

Train Drivers Directive - amendment 2016/882

Annex – (EU) 2016/882

Point 8 of Annex VI to the Directive 2007/59/EC is replaced by the following:

'8. LANGUAGE TESTS

1. Drivers who have to communicate with the infrastructure manager on critical safety issues must have language skills in at least one of the languages indicated by the infrastructure manager concerned. Their language skills must be such that they can communicate actively and effectively in routine, degraded and emergency situations. They must be able to use the messages and communication method specified in the "Operations and traffic management" TSI.
2. In order to satisfy the requirements provided for in paragraph 1, drivers must be able to understand (both listening and reading) and to communicate (both speaking and writing) according to level B1 of the Common European Framework of Reference for Languages (CEFR) established by the Council of Europe (1).
3. In case of sections between the borders and the stations situated close to the borders and designated for cross border operations, drivers of trains operated by a railway undertaking may be exempted by the infrastructure manager from the requirements of paragraph 2, provided that the following procedure is applied:
 - (a) the railway undertaking shall request a derogation to the infrastructure manager for the concerned drivers. In order to ensure a fair and equal treatment of the applicants, to each submitted request for derogation the infrastructure manager shall apply the same assessment procedure, which shall be part of the network statement;
 - (b) the infrastructure manager shall grant a derogation if the railway undertaking can demonstrate that it has made sufficient arrangements for ensuring communication between the concerned drivers and the staff of the infrastructure manager in routine, degraded and emergency situations, as provided for in paragraph 1;
 - (c) railway undertakings and infrastructure managers shall ensure that the concerned staff is aware of those rules and arrangements and receive appropriate training through their safety management systems.

2. Where do we stand today ?

- ☛ Granting a language derogation to the **RU** is an **option** for the infrastructure manager:
 - ✓ Any RU has the **right to ask** for a derogation at borders.
 - ✓ The IM has the **obligation to start** an assessment procedure on that request.
 - ✓ The **decision of** whether a derogation is granted or not lays ultimately with the infrastructure manager.

- ☛ The **IM** includes the assessment procedure in its Network Statement.

3. Recommendations and Comments - I

- ☛ Granting a language derogation to the RU **shall remain an option** for the IM:
 - ✓ Allowing a language derogation would have substantial consequences at **safety level**. The IM is the actor best placed to take the ultimate decision to grant a derogation or not.
 - ✓ Any obligation of the IM to grant per se a derogation according to amendment 2016/882 will result in the IM to be **held legally responsible** in the case of an accident. The process to assess the mitigation procedure would be cumbersome.
 - ✓ **Existing derogations**, under the current conditions, are **acceptable** since they have been proved by time as safe.

3. Recommendations and Comments - II

- ☛ The IM shall not be obliged to assess the language capabilities of the RU.
 - ✓ The Safety Directive (EU) 2016/798 states that each actor on the railway system is solely responsibly for its own operations.
 - ✓ To require the IM to specify this may constitute a deviation of this basic principle.
 - ✓ The Interoperability Directive (EU) 2016/797 states that each TSI shall – for all concerned staff – outline the qualifications needed to secure health and safety for operating & maintaining the sub-system.

4. The way forward

- ☛ A harmonised assessment procedure on EU level, following a request for derogation, should be considered by the EC / EUAR.
 - ✓ The Agency may consider securing a uniform handling of all cases
 - ✓ Cooperation between IMs and RUs in the process to be encouraged.
- ☛ Future derogations should not conflict with a possible decision regarding a common operational language.
- ☛ The centralization of IMs Traffic Control Centres could challenge the use of local language derogations.

The End