EUROPEAN
COMMISSION

Brussels, 17.1.2022
COM(2022) 12 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

on the exercise of delegation of powers to the Commission to adopt delegated acts, pursuant to Article 6(6), 7(6) and 27 of Directive 2016/798

1. Introduction

Articles 6(6) and 7(6) of Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety[1] confer powers on the Commission to adopt delegated acts in accordance with the conditions laid down in Art. 27, for a period of 5 years, starting from 15 June 2016, tacitly extended for periods of identical duration.

Due to the extraordinary and unforeseeable situation caused by the COVID-19 outbreak, EU Member States were given an additional period to complete the transposition of Directive (EU) 2016/798 through the adoption of Directive (EU) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives (EU) 2016/797 and (EU) 2016/798, as regards the extension of their transposition periods[2]. The latter amending Directive also introduced two new provisions, Article 6a and Article 27a, in Directive (EU) 2016/798.

Article 6a of Directive (EU) 2016/798 enables the Commission to align the application dates of delegated acts adopted under Article 6(6) of Directive (EU) 2016/798 with the extended transposition deadline (time-limited delegation). The power to adopt such acts is conferred from 28 May 2020 to 31 October 2020. Article 27a of Directive (EU) 2016/798 sets a special urgent procedure for the adoption of those acts.

This report concerns the above described delegated powers and lists the acts adopted by the Commission in their exercise.

2. Legal basis for the report

Pursuant to Article 27(2) of Directive (EU) 2016/798, the Commission was required to draw up a report in respect of the delegation of powers by 15 September 2020.

However, as explained above, due to COVID-19 outbreak, measures were taken to broaden the Commission's delegated powers. Thus, although belated, this report is more exhaustive in that it covers the exercise of the full set of delegated powers.

3. Exercise of the delegation

The following table shows the relevant empowerments:

Empowerments in Directive (EU) 2016/798	Delegated act empowerment description
Article 6(6) in conjunction with Article 6(1)	The Commission is empowered to adopt delegated acts in accordance with Article 27 concerning the contents of the Common Safety Methods in: • the risk evaluation and assessment methods; • the methods for assessing conformity with requirements in safety certificates and safety authorisations issued in accordance with Articles 10 and 12; • the methods for supervision to be applied by national safety authorities and the methods for

[1] OJ L 138, 26.5.2016, p. 102

[2] OJ L 165, 27.5.2020, p. 27

	monitoring to be applied by railway undertakings, infrastructure managers and entities in charge of maintenance; • the methods for assessing the safety level and the safety performance of railway operators at national and Union level; • the methods for assessing the achievement of safety targets at national and Union level; and • any other methods covering a process of the safety management system which need to be harmonised at Union level.
Article 6a (from 28 May 2020 to 31 October 2020)	Alignment of Common Safety Methods with revised Directive (EU) 2016/798 transposition deadlines. The Commission is empowered to adopt delegated acts in accordance with Article 27 to align the application dates of delegated acts adopted under Article 6(6) with the transposition deadline set out in Article 33(2a). The procedure provided for in Article 27a applies to delegated acts adopted pursuant to this Article.
Article 7(6)in in conjunction with Article 7(1)	The Commission is empowered to adopt delegated acts in accordance with Article 27 concerning the content of the Common Safety Targets in particular : • individual risks relating to passengers, staff including employees or contractors, level crossing users and others, and, without prejudice to existing national and international liability rules, individual risks relating to trespassers; • societal risks.

The Commission has exercised its empowerment under Article 6(6) of Directive (EU) 2016/798 by adopting:

a) Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for supervision by national safety authorities after the issue of a single safety certificate or a safety authorisation pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation[3], and

b) Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods on safety management system requirements pursuant to

[3] OJ L 129, 25.5.2018, p. 16

Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010[4].

These Delegated Regulations set out a coherent set methods which should be integrated in the Common Safety Methods to guarantee and to improve safety via the supervision exercised by the national safety authorities and the setting of safety management system requirements. This is done while making it possible to facilitate, improve and develop rail transport services within the Union and with third countries and contribute to the completion of the single European railway area and the progressive achievement of the internal market.

The Commission has exercised its empowerment under Article 6a of Directive (EU) 2016/798 by adopting the Commission Delegated Regulation (EU) 2020/782 of 12 June 2020 amending Delegated Regulations (EU) 2018/761 and (EU) 2018/762 as regards their dates of application following the extension of the transposition deadline of Directive (EU) 2016/798 of the European Parliament and of the Council[5].

This Delegated Regulation gave Member States the possibility to extend the deadline to apply certain provisions of Commission Delegated Regulations (EU) 2018/761 and (EU) 2018/762 due to the extraordinary circumstances of COVID-19 outbreak.

The Commission has not exercised its empowerment under Article 7(6) of Directive (EU) 2016/798.

4. Conclusion

With this report the Commission complies with the reporting obligation pursuant to Article 27(2) of Directive (EU) 2016/798.

The Commission invites the Council and the European Parliament to take note of this report.

[4] OJ L 129, 25.5.2018, p. 26
[5] OJ L 188, 15.6.2020, p. 14