

POSITION PAPER

CER comments on the Commission Staff Working Document on Transport Security (SWD (2012) 143)

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COMMUNITY OF EUROPEAN RAILWAY AND INFRASTRUCTURE COMPANIES - COMMUNAUTÉ EUROPÉENNE DU RAIL ET DES COMPAGNIES D'INFRASTRUCTURE - GEMEINSCHAFT DER EUROPÄISCHEN BAHNEN UND INFRASTRUKTURGESELLSCHAFTEN



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EXECUTIVE SUMMARY

CER welcomes stronger European coordination and cooperation between security authorities, police forces and transport operators. However, CER does not believe that new and additional security requirements and legislative measures would generate any added value for the transport sector as a whole and consequently objects to such measures.

The existing bodies and voluntary standards (AEO etc.) should be used and interfaces between the state, business enterprises and transport associations defined. Unified coordinated actions and close cooperation could save resources and the exchange of experience could enable the different actors to learn from one another.

CER therefore welcomes the establishment of the expert group and stakeholder advisory group on land transport security and looks forward to being an active member of the latter.

Note: UIC participated and contributed on the paper technical aspects.

1. OVERALL RESPONSE TO THE STAFF WORKING DOCUMENT, INCLUDING POSSIBLE EU LEGISLATION

- The overall objective of the European Commission's Staff Working Document - 'to consider what can be done at the EU level to improve transport security, particularly in areas where putting in place common security requirements would succeed in making Europe's transport systems more resilient to acts of unlawful experience' is sound and the document does raise some important issues.
- CER is very supportive of sharing best practice and intelligence across Europe - and hence supports the setting up of the Expert Group and Stakeholder Advisory Group on Land Transport Security as both should support this and seem a good way of expanding knowledge of both threats and responses. **International cooperation between and amongst security authorities and transport operators play a key role in transport security and should be intensified and extended.**
- **However, we are opposed to new EU legislation**, because legislation provides a blunt tool that is likely to be insufficient for high risk parts of the network (potentially rendering them more vulnerable to attack) but excessive (and therefore unnecessarily costly and/or obstructive) for much of the rest of it. It is also difficult to see how a legislation based approach would provide sufficient flexibility to respond quickly and effectively to emerging changes in the nature of security threats.
- Mandatory requirements for transport security at the EU level must be imposed only in conformity with the principle of **subsidiarity** and must create clear added value for the security of transport as a whole.
- **The success of the EU security initiatives which have already been implemented should be analysed and evaluated before any decisions are reached at the EU level on further mandatory measures.** Equally, a thorough analysis of existing national, regional and local measures would be necessary in order to avoid unnecessary duplication.
- **The division of competences and responsibilities between security authorities and transport operators must be respected.** National security is a government task which falls within the responsibility of its security authorities with the support of transport operators.
- **The expansion and application of aviation or maritime security measures to railway stations and operations should be rejected as the systems are very different.** The flexibility of rail as an open access transport mode requires the preservation of present structures which have evolved over the years and are culturally accepted.
- **The staff working document focuses primarily on terrorist threats. Other security issues that would be relevant to the transport sector such as metal theft or vandalism are not addressed.** CER believes, however, that an exchange of best practises and information on these issues at EU level could be useful as they are organised international phenomena.

2. RESPONSE TO MORE DETAILED POINTS IN THE STAFF WORKING DOCUMENT

2.1 Security of transport interchanges and mass transit security

The Commission's viewpoint is that multimodal transport interchanges are a potentially attractive target for terrorists as they provide an opportunity for causing havoc and damage to several transport modes simultaneously. The starting point that large crowds of people can be an attractive target for terrorists and can consequently pose a potential threat situation is certainly true. However, this is a general security problem, not a special problem of multimodal transport interchanges. The same circumstances exist, for example, at shopping malls, shopping streets, funfairs and trade fairs. **It is not possible to entirely eliminate all potential security risks at publicly accessible places where large crowds of people gather. The objective should therefore be to mitigate the risk as far as reasonably practicable.**

It should further be noted that **the Commission's comparison of railway stations and airports from a security needs point of view is not valid.** Public passenger transport, local transport and rail transport are, with very few exceptions, intended as **mass transit systems**. If they are to fulfil this purpose, they need to be **"open systems"** with passengers able to access them without having to go through turnstiles, security checks or checks by ticket inspectors at entry points. They also need to offer a high level of flexibility, including multiple access points, not least because of the high passenger volumes that have to be coped with daily.

The infrastructure has been optimised and adjusted to reflect these circumstances and is not designed to include significantly adapted walking routes to and from the vehicles, access controls, etc. Any fundamental modification of this system would necessitate immense infrastructure modifications involving unforeseeable structural and financial requirements. In view of the present budgetary situation of the EU and its Member States, this is currently inconceivable.

Furthermore, such modifications would jeopardise the continuous functioning capacity of the entire existing system. There is a risk that the existing connections would be destroyed, which would in turn reduce acceptance on the part of the passengers, who would then shift to other transport modes such as road.

2.2 Rail transport security

The Commission believes that the high-speed rail network is a potentially attractive target for terrorist acts and is considering the introduction of EU-wide standards for rail transport security, which would then apply throughout the entire high-speed rail network in the EU.

The specific focus on the trans-European high speed rail network is simplistic. While there are some examples where this is self-contained (such as in Spain), it is more common that trains on high speed routes start or continue their journeys on the conventional network. Also, it is increasingly the case that future high speed lines are being designed to be used by regional passenger services and freight trains as well as high speed. It is therefore not practical, nor probably justifiable in risk terms, to separate high speed and conventional parts of the network. Security needs to react to threat levels, not speed.

The Commission also proposes legislation requiring security features to be incorporated in the design of rolling stock and infrastructure. **Security aspects are already taken into account in the design of**

infrastructure and rolling stock today, for example through the installation of CCTV and adequate lighting, or in the area of freight operations, through a combination of security measures both at rolling stock and at infrastructure level. It should also be taken into consideration that mandatory minimum standards might also impact on other priorities. For example, if such provision in a coach results in an increase in the overall weight then this will result in more energy being consumed for traction purposes and increased track maintenance costs. This conflicts with other European objectives concerning sustainability and the overall competitiveness of rail.

2.3 Staff training/awareness

In the Commission's opinion, all employees who work in the land transport sector should play their part in ensuring a high level of security. The Commission is therefore considering the introduction of mandatory requirements for training security staff and mandatory security awareness training courses for all persons working in the land transport domain.

The starting point - that all those on or about the railway (though passengers are not mentioned) should be alert to suspicious activity and know what to do should they become aware of it - is a sound one. However, **CER considers it important to apply a flexible approach in any discussion about mandatory training courses and regular further training. A blanket EU-wide obligation for all transport undertakings and all their employees is neither in line with requirements nor with practical circumstances.** Instead, it should distinguish between the size of the undertaking, the individual threat and potential risk situation as well as the functions of the employee groups who are to receive training.

Nevertheless, CER is of the opinion that the issue of security (awareness) needs to be addressed in every transport company.

An EU-wide law cannot take into account the specific circumstances of the individual undertaking. Initial and regular recurrent training courses are important and sensible measures for employee groups who are entrusted with security tasks within a transport undertaking. Raising the awareness of other employees for security situations could generate synergies. However, this has to be decided on a case-by-case basis.

External persons (tenants, external service providers) should be made aware of the importance of reporting suspicious situations which could be security-relevant and to behave appropriately. However, **CER questions the necessity for further measures, in particular mandatory measures imposed on third parties, such as training for shopkeepers and external cleaning staff at railway stations and bus stations.**

2.4 Planning of post-incident measures

The Commission envisages obliging transport undertakings and transport service providers to take suitable measures in the aftermath of a terrorist attack with chemical, biological or radioactive weapons (CBR). In the Commission's opinion, this includes drawing up international contingency plans for emergencies, compulsory attendance at first aid courses and the development of plans for the swift recovery of transport operations.

CER agrees with the Commission that transport undertakings have to be prepared to react adequately to a security incident. **Comprehensive emergency management procedures are in place in the rail sector for that very reason in accordance with 2004/49/EC transposed into national regulations.**

Regular exercises (including both safety and security aspects) are organised in consultation with the responsible security authorities. However, CER believes that the responsibilities and competencies of these authorities have to be upheld. **Averting threats is first and foremost the duty of the state, with the business enterprises playing their part in mitigating risks.**

Here again the crucial factor is ensuring cooperation and coordination of the activities of the security authorities and the transport operator(s) concerned. The size of the enterprise concerned also has to be taken into consideration. An EU-wide regulation would apply not only to large business operators, but would also impact on even the smallest bus companies.

An obligation which applies throughout the entire EU cannot adequately reflect this situation nor address the specific needs at local, regional and national levels.

2.5 Better Communication and sharing of confidential information

CER welcomes a stronger connection of the different flows of information between all security authorities at EU level. This would enable better/wider awareness of emerging or changing threats, faster response times and more efficient use of synergies and coordinated security measures, generating added value at the EU level for improving transport security.

The need for multilateral communication and co-operation on a European level is also reflected in the existence of railway security bodies (such as COLPOFER or the security platform of UIC) which address operational security issues and current threat scenarios.

2.6 Supply chain security

The Commission considers it advisable that security checks should be conducted at or near the point of shipment and that security integrity be maintained throughout the entire journey - known as end-to-end security.

Security requirements should be in proportion to the risk, so that special requirements should be considered only for certain types of cargo and on the basis of customer demand, for instance for particularly valuable consignments, or cargo which is to be transferred to aircraft. Solutions provided by the intelligent cargo concept or EU-funded projects such as EURIDICE or iCargo, should be considered. Support should be provided for best-practices which have already proved successful, e.g. the latest logistics technologies.

CER believes that the existing security certification processes pursuant to AEO-F/S in EU customs legislation, which apply throughout the EU and which are internationally recognised to a certain extent beyond the EU, e.g. in the USA and Japan such as TAPA, already constitute best practice which provides sufficient scope for ensuring a good security standard.

To date, applying for security certification pursuant to these regulations has been voluntary. However, in current practice these certificates are increasingly used in the transport and logistics business in response to customer requirements and are effectively evolving as a voluntary standard. In order to increase the use of these certifications, it is important in each shipment to properly take into consideration the security level and measures applied by the customers as a basis of the respective railway security procedures. This

increases the global security level of the supply chain and contributes more to end-to-end security. The regulations on which these certificates are based are flexible and offer sufficient leeway for further development. Any additional EU-wide regulation is unnecessary in CER's opinion and would actually be counterproductive as this would reduce interest in the existing certificates and consequently jeopardise the progress made to date in this area.

Moreover in a free market, it is up to the customers as owners of the freight to decide individually which security precautions they wish to see fulfilled on the basis of the associated risks (e.g. transporting automobiles in open or closed freight wagons or the potential for theft of items). It is not the duty of the state to prescribe a security level for the protection of personal goods if there is no demand in the market for this.

CER therefore believes that mandatory measures for supply chain security are to be rejected, as this neither meets the requirements of the market, nor could they be implemented without disproportionately high barriers for transport handling and cost increases for the entire industry. However, CER welcomes the application of the existing voluntary standards.

2.7 Cybercrime issues of land transport

The Commission believes that transport is highly dependent on IT management and electronic communication systems and that it is therefore important to ensure that the transport sector is resilient to cyber-attacks.

Data protection has always been crucial for rail activities and in particular since the European paperless customs policies were launched a couple of years ago. **CER agrees with the Commission that functioning security systems provide important protection for transport against external attacks. Traffic management systems for rail and public transport already fulfil high security standards today. CER welcomes the pooling of cyber security initiatives at the EU level but does not see any need for legislative measures at this point.**

Furthermore, the discussion of cyber security for transport operations needs to be part of the overall discussion on this topic and be not dealt with separately.

2.8 Security Research

CER supports the initiative for further research in the field of transport security. The evaluation of future proposals needs to ensure that research is driven by the needs of the transport sector rather than by suppliers of security systems. Security industry participation is relevant, but cannot be the sole determinant of needs.

Key topics from an operational security point of view for future research are:

- Metal thefts
- Graffiti and Vandalism
- Cyber security

2.9 International activities

The Commission considers it important to adopt measures, if possible at international level, to improve the resilience of transport to terrorist attacks and to promote close cooperation with third countries. It believes that this approach should also be pursued for land transport in order to create a reliable network which can forward important information promptly.

CER welcomes more intensive cooperation and better information flows between the relevant security authorities of the Member States.

ANNEX

Comments following the first meeting of the Land Transport Security Expert Group (LANDSEC) on January 30th 2013

CER welcomes the establishment of this permanent body.

We strongly support the Commission's decision not to introduce any further legislation in the field of Land Transport Security. Separating the issues of freight and passenger security within DG MOVE will also help to focus the discussion within the transport industry accordingly. CER will keep following the discussion on land transport security via its newly established Security Working Group. We are available to contribute towards any further political security discussion and will gladly continue to be part of the Stakeholder Group.

Disclaimer

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