Resolution on the implementation of the first railway package Directives (2001/12/EC, 2001/13 /EC and 2001/14/EC)

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Following the plenary debate that took place on 16 June 2010, the European Parliament adopted a resolution tabled by the Committee on Transport and Tourism on the implementation of the first railway package Directives (Nos 2001/12/EC, 2001/13/EC and 2001/14/EC) further to Oral Question for debate O-0030/2010.

The resolution notes that the first railway package, adopted in 2001, contains three directives on the development of the Community's railways, on the licensing of railway undertakings and on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification. It was intended to revitalise the rail industry by acting as a first step towards the **creation of an integrated European railway area**, and to provide a sound financial structure to bring this about. The directives of the first railway package were due to be transposed into national law on 15 March 2003, but the Commission waited until June 2008 before launching infringement procedures against 22 Member States for **incorrect or incomplete implementation**. On the basis of the second report of the Commission on monitoring the development of the rail market, the rail share in transport has not increased but only stabilised at the low level of around 10% in the freight market and at less than 7% for passenger transport in 2002.

Parliament deplores that a large majority of Member States have failed to implement properly the first railway package and considers that this has prevented the development of rail share in transport in general. Given that a full implementation of the first railway package was an absolute priority for Parliament, it very dissatisfied that this has not been respected by the majority of Member States. It also regrets that the Commission has lost five years to act against this failure and waited until June 2008 before sending letters of formal notice and until October 2009 to send reasoned opinions for incorrect or incomplete implementation. It regrets that the European Commission **has not sufficiently focussed its monitoring** on the financial foundations of the railway system and urges it to initiate, without delay, the legal proceedings against the 22 Member States in question. Parliament urges those 22 Member States to respect the European legislation without further delay.

It requests that the Commission makes public concrete information on the elements not fully implemented in each Member State, especially on the **insufficient set up of an independent regulatory body and the lack of implementation of provisions on track access charging**. It also asks the Commission to inform Parliament on the different legal interpretations between the Commission and the Member States on the independence of infrastructure managers.

Independence of infrastructure managers: Parliament stresses that sufficient independence has to be guaranteed to the infrastructure manager, as the latter has a central role, according to Directive 2001/14 /EC, in providing fair access to infrastructure capacity to all applicants through the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification. This independence is a precondition for allowing fair, transparent and non-discriminatory treatment of all operators. It underlines as particularly worrying that insufficient practical and legal safeguards to guarantee the independence of infrastructure managers have been provided, especially when they are part of a railway holding containing also rail transport activities.

It requests that Member States not respecting this provision clearly separate the essential task of allocating capacity on the national rail network from any incumbent railway operator through all necessary legal and functional measures.

The lack of powers of regulatory bodies: Parliament is worried by the fact that no sufficient powers and resources have been attributed to regulatory bodies and that this results in a lack of control of competition problems in each national market. It asks the Commission to inform the Parliament on the powers of the regulatory bodies which need to be reinforced by Member States in order to guarantee them real power to monitor their respective railway markets.

Infrastructure financing and charging framework: Parliament notes that although specific provisions relating to the financing of infrastructure and tackling of railway debt were included in the first railway package, the level of investment in rail infrastructure development and maintenance remains largely insufficient in many Member States, with the quality of the existing infrastructure declining in several cases. It therefore urges Member States to mobilise the necessary resources to ensure that new rail transport projects are developed and that the existing infrastructure is adequately maintained.

Track access charging: Parliament notes that the independence of infrastructure managers and guaranteed powers and resources for regulatory bodies are preconditions for satisfactory track access charging. It expresses concern at the insufficient implementation of provisions on infrastructure charges, especially the absence of performance schemes in order to improve the performance of the railway network and of tariff systems based on the direct costs of rail services, as well as the lack of independent determination of infrastructure charges by the infrastructure manager. It regrets that, due to this lack of implementation, the infrastructure charges appear not to be directly linked to the costs of train services and that the rail market might not be able to bear these high charges. It considers that track access charging principles applying to rail and road transport should converge to establish the ground for a real level playing field among transport modes and stresses that such a level playing field would make the EU transport system more sustainable and more efficient and would maximise rail’s environmental competitiveness.

The revision of the first railway package: Parliament stresses that a proper and full implementation of the first railway package is a fundamental condition to create a European rail network and that the absolute priority of the European Commission shall be to pursue this implementation by all legal procedures at its disposal. It urges the Commission to propose a revision of the first railway package by September 2010. It requests the Commission to treat in priority in this revision the problems of the independence of the infrastructure managers, of the regulatory bodies' lack of resources and powers and to propose an appropriate infrastructure access charging principles that stimulates public and private investments in the rail sector.

Members consider that further liberalisation of the rail market should not detract from the quality of rail transport service and should safeguard public service obligations; until the complete opening up of the markets, the principle of reciprocity should be applied.

Parliament asks the Commission to react or give the information concerning its requests within the recast of the first railway package or at the latest by the end of 2010.