

Single European railway area. Recast

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The Council reached **agreement on a general approach** on a draft directive establishing a single European railway area, which is a recast of the "first railway package" consisting respectively of three directives on the development of European railways, licensing of railway undertakings and management of railway infrastructure. The purpose of the recast is to simplify, clarify and modernise the regulatory framework for Europe's railway sector so as to improve conditions for investment, increase competition and strengthen market supervision in that sector.

The European Parliament, whose approval is also required for the adoption of the directive, has not yet established its position at first reading and is expected to deal with this issue in July and September 2011.

A qualified majority of Member States were able to accept the compromise proposal presented by the Presidency, subject to a few amendments. This text includes the following solutions as regards the key issue of the rules on the access by railway undertakings to service facilities and the services supplied in these facilities:

where an operator of service facilities belongs to a body or firm that holds a dominant position in one or more railway service markets for which the facility is used, **the operator must be independent from that body to a certain extent** in order to guarantee non-discriminatory access by railway undertakings to service facilities and the services supplied in these facilities. **Such independence will imply separation of accounts as well as independence in organisational and decision-making terms**, but does not require the establishment of a separate legal body and may be fulfilled with the organisation of distinct divisions within a single undertaking;

a facility that has been unused for three years and for the access to which there is a justified demand by railway undertakings must be publicised for lease, unless the facility is undergoing a conversion process.

The main amendment introduced during the meeting concerns the **rules on charges for use of infrastructure and services**. The infrastructure manager or service facility operator, which has to set the charge for the minimum access package in line with the cost directly incurred as a result of operating the service, will have the possibility of **gradually adapting to the methodology for calculating direct costs during a period of five years** after the deadline for the transposition of the directive in national law. This provision responds to the fears of some Member States that insufficient cost recovery might lead to the need for the state to strongly subsidise infrastructure managers or operators.

Some delegations, however, were not in a position to agree to the compromise. One of the reasons was the requirement of independence in organisational and decision-making terms. Further, one Member State considers the rules on market liberalisation inappropriate for its small railway network. Another Member State still has concerns that due to its specific conditions, the charging principles will not allow sufficient cost recovery by the infrastructure manager.