

Railway transport of passengers: opening to international competition, Rail Market Access.

3rd package

2004/0047(COD) - 30/01/2013 - Follow-up document

Directive 2007/58/EC the Commission presents a report on the implementation of the provisions regarding the opening of the international rail passenger transport market accompanying the Communication on the fourth Railway Package.

Transposition: although all Member States were delayed as regards transposition (the deadline was 4 June 2009), by now all of them have taken national legislative measures to comply with the Directive. International rail passenger services including cabotage rights have been liberalised in the EU as from 1 January 2010.

Implementation: the interpretation of Article 10 (3a) and the provisions concerning the principal purpose of a rail service and the economic equilibrium of services under a public service contract being compromised proved to be the most difficult for Member States. In this field, the Commission adopted an [interpretive Communication](#) and will adopt implementing acts on the basis of the [Directive establishing a Single European Railway Area](#).

Limitation of cabotage rights: several Member States decided not to use any of the options provided by the Directive to limit new international services or cabotage rights. Even where national law grants the possibility of limiting cabotage, practical application of those provisions remains minimal. Concession-based limitation seems to be the most efficient of the safeguard clauses to protect the interests of operators providing services on a route that may be interesting for cabotage. However, this used only by the Netherlands.

Development of the service: the report shows that the implementation of the Directive resulted in very few new services launched so far and makes an attempt to analyse the reasons for that. It notes that when trying to enter the international rail passenger market, new operators are often facing barriers linked to inadequate implementation

of previous railway packages or loopholes in previous EU legislation. Infringement procedures, the recast of the First Railway Package and the proposals for the Fourth Railway Package are expected to contribute to the solution of these problems.

The report goes on to note that in any event, most segments of the international rail passenger market are barely profitable and therefore unattractive for operators. The experience from opening the rail freight market shows that new operators (even subsidiaries of incumbent railway undertakings in other Member States) **prefer domestic services to international ones** as traffic flows are larger and domestic traffic is easier to organise. The Commission's proposals to open up domestic rail passenger markets and to expand competitive tendering in the framework of the **Fourth Railway Package** (see [2013/0028\(COD\)](#) and [2013/0029\(COD\)](#)) should give a boost to the development of international services. The analysis of the experience gained from the opening of the international rail passenger market since 2010 seems to confirm that new international services are likely to spread from domestic market opening rather than the other way round.