

Single European railway area: opening of the market for domestic passenger transport services by rail and governance of the railway infrastructure. 4th Railway Package

2013/0029(COD) - 18/10/2016 - Council position

The Council adopted its position at first reading with a view to the adoption of a Directive amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure.

The main objectives of the proposal are to improve the quality and efficiency of domestic rail passenger transport services and to remove any remaining legal obstacles to the completion of the Single European Railway Area.

The Council position:

- **strengthens the independence and impartiality of rail infrastructure managers** in order to ensure that all railway companies have equal access to tracks and stations. The Council considers that further opening of the domestic rail passenger market should be pursued. However, where the economic equilibrium of contracts signed for public service obligations is at stake, it should be possible for the Member States to limit access. In addition, it should be possible for Member States that have borders with third countries to establish additional conditions for fair market access;
- **authorises Member States to be free to choose between different organisational models**, ranging from full structural separation to vertical integration, subject to appropriate safeguards to ensure the impartiality of infrastructure managers, which include notably limitations on double mandates and the avoidance of conflicts of interest;
- restricts the application of the most stringent rules to the essential functions. For example, capacity allocation and determination and collection of track access charges that are critical for the non-discriminatory access to the infrastructure of new entrants. New general rules have been introduced to ensure transparency and impartiality also in traffic management and maintenance planning;
- puts in place **stringent financial transparency rules** while respecting national procedures applicable in each Member State, income from infrastructure network management activities, including public funds, may be used by the infrastructure manager only to finance its own business, including the servicing of its loans. The provisions on accounting separation, coupled with the **new rules** on intra-group loans and services, use of infrastructure managers' dividends and full regulatory oversight of financial flows within vertically integrated undertakings will ensure that neither infrastructure charges nor public funds can be diverted from their destination in order to cross-subsidise activities carried out in competition with other undertakings;
- **allows outsourcing** of certain functions of the infrastructure manager, but the infrastructure manager should maintain ultimate control of and responsibility for the operation, maintenance and renewal of its network;
- **ensures coordination and cooperation between infrastructure managers** whilst providing railway operators access to pertinent information. Exchange of information, monitoring of performance and analysis of other relevant questions on rail infrastructure should also take place between the Member States;
- introduces special provisions for the access of **high-speed passenger services** to the Union rail infrastructure;

- further enhances **IT systems and ticketing systems** to make multimodal, cross-border and door-to-door mobility options possible;
- **reinforces regulatory bodies' powers** allowing for effective enforcement by national regulatory bodies and the Commission.

Infrastructure managers should comply with the new requirements **from 1 January 2019**. Member States should ensure that railway undertakings have non-discriminatory access to the working timetable in order to launch new commercial services on 14 December 2020.