

# **Rail freight services: compensation in case of non-compliance with contractual quality requirements. 3rd package**

2004/0050(COD) - 03/03/2004 - Document attached to the procedure

The European Commission presents a communication on the further integration of the European rail system: third railway package. The introduction of the new European regulatory framework for rail transport is progressing in line with the reform objectives set out in the White Paper European transport policy for 2010: Time to decide. These objectives place the revitalisation of the rail sector at the heart of the sustainable mobility strategy and, to this end, seek to improve the attractiveness and competitiveness of more environmentally friendly modes of transport. They also seek to put customers, and in particular passengers, at the centre of a high-quality transport system. In its Communication introducing the second railway package, the Commission put forward an implementation schedule for the measures set out in the White Paper for the phase following the second railway package. This document discusses the current status of the measures proposed in that package. The implementation of the measures is now set to continue by means of four new proposals: - a proposal for a Directive on the certification of locomotive and train drivers engaged in the carriage of passengers and goods in the Community. To enable train drivers to operate in the future integrated European railway area, it is important that action be taken now to set up a certification system which fully recognises the specific skills needed to drive a train and at the same time facilitates driver movement and mobility. The certification system thus needs to be based on a clear and logical distinction between two levels. Firstly, general knowledge, which is comparable to basic training, acquired by each individual. This general knowledge does not relate to a specific infrastructure or a particular network. It needs to be recognised and to be valid throughout the Community. Its recognition needs to be authenticated by a licence granted to the individual driver. Secondly, specific knowledge, relating to a specific route. This needs to encompass line knowledge, the rolling stock and the operating procedures of the particular railway undertaking. Accordingly, recognition of this knowledge must necessarily be restricted to a specific context. The Community instrument proposed observes these simple principles, in that it provides for a single document valid throughout the Community for the first level, and a series of certificates for the second. To be able to operate, drivers will therefore need to be in possession of a licence and a certificate (or several certificates) relating to the railway undertaking which employs them, the line they will be working on and the rolling stock they will be operating. - a proposal for a Regulation on international rail passengers' rights. Access to information and fares, and the option of buying international rail tickets easily, are the very least that is needed to make rail services attractive. In addition, a framework is required for liability in the event of accidents or incidents during a journey or in the event of delay. The principle of compensation also needs to be acknowledged, and thresholds set for the amount of compensation depending on the type of journey. The various channels for making appeals and handling complaints need to be clearly identified so as to facilitate passenger transactions. Lastly, account needs to be taken of the particular needs of people with reduced mobility. These arrangements to protect passengers' rights will be all the more vital once the market is opened up for certain services. The combination of an open market and a rigorous framework of passengers' rights should generate a positive dynamic in which international rail services improve in quality and become more attractive compared with competing modes, notably air travel, which has its own increasingly detailed framework to protect passengers' rights. - a proposal for a Directive on opening up the market for rail passenger transport services. There are two models for opening up to competition. Firstly, a competitive procedure can be used to award a public service contract, accompanied, if necessary, by exclusive rights for a certain period and, where appropriate, by compensation for the public service. This model works well for suburban and regional services. It underpins the Commission's proposal to modernise Regulation No 1191/69 on public service obligations. The other model consists, as for rail freight, in opening up access to the infrastructure for operators wishing to provide services. It should be noted that opening up access rights is not in itself

sufficient to create a situation of genuine competition right away. Before operating, potential competitors will need to have: - rolling stock and drivers authorised to move through the Member States in which they plan to operate; - a railway undertaking licence in a Member State; - a safety certificate issued by the national safety authority of each Member State; - infrastructure capacity. This second model, based on free access to the infrastructure, is better suited to long distance services and to specific services where a commercial innovation is likely to attract new customers (e.g. occasional trains, car trains). The high-speed trans-European network, which will be linked up by 2010, could also provide scope for the appearance of new competing services. That is why the proposal now being put forward is designed to take account of the diversity of markets segments by providing a clear and simple link between the area covered by public service contracts (within the meaning of Regulation No 1191/69) and the area open to new initiatives. Under the proposal, all international services would be opened up to competition on 1 January 2010, except for services operating between two specific locations under a public service contract.

- a proposal for a Regulation on the quality of rail freight services. The Commission proposes a common base which will apply by default if the railway undertaking and its customer fail to introduce a specific system to improve quality. To that end, the proposal establishes mandatory minimum clauses for transport contracts, failure to include which will make the latter null and void. These clauses include a requirement for the parties to provide for a system of compensation in the event of freight being delayed or damaged. In addition, the directive introduces minimum ceilings for compensation in the event of delay: the parties have to set the amount by mutual agreement in the transport contract, but in order to provide a reasonable economic incentive the compensation may not be less than 5% of the cost of the transport. The Commission believes this proposal will act as a strong incentive for railway undertakings and their customers to take a contractual approach to quality management.