

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

2004/0050(COD) - 03/03/2004 - Legislative proposal

PURPOSE : continuation of the reform of the rail sector by improving the quality of rail freight services within the European Union (Third Railway Package). **PROPOSED ACT** : Regulation of the European Parliament and of the Council. **CONTENT** : as announced in the White Paper 'European transport policy for 2010: time to decide', the Commission is presenting a proposal with a view to stepping up the quality of rail freight services in the Union. This is one of several measures being proposed to complement the First Rail Package (2001) and the Second Rail Package, which is to be formally adopted in the near future (directive on rail safety, the Rail Agency and the opening of the freight market). Along with this current proposal on the opening of the market, the Commission is also proposing to improve the rights of passengers using international services (COD/2004/0049), to establish a certification system for locomotive drivers (COD/2004/0048) and open up the international transport of passengers within the Union to competition (COD/2004/0047). The proposed Regulation creates an EU framework for compensations in rail freight which starts from the basic principles of the CIM provisions but tries to reflect better the realities of today's rail freight transport markets. It is characterised by a "light" regulatory approach, appropriate for a business-to-business market context. It provides market actors with contractual freedom whilst defining certain fall back rules for responsibilities of both carriers and customers, as well as compensation levels. The basic parameters of the proposed EU Regulation on compensations are the following: the definitions of liability, quality criteria related to rail freight transport, compensation levels, a quality monitoring scheme, liability limitations and the responsibilities of rail infrastructure managers. The contracting railway undertaking, which has accepted goods for transport, is responsible for the transport over the entire route up to the point of delivery. Appropriate quality criteria today are: the achievement of an agreed delivery time, information to the customers in case of a delivery problem and certain flexibility related to the transport order. Contractual parties have to agree on implementing an appropriate monitoring system allowing the unambiguous documentation of any possible non-respect of contractual requirements. Liability for normally standard conditions such as fault, force majeure or unavoidable circumstances is excluded. In the event that the rail infrastructure manager is responsible for a disturbance of traffic that leads to a delay in transport time, he is liable to the railway undertaking(s). The Commission expects that the application of the proposed compensation scheme will provide effective incentives to railway undertakings to enhance the efficiency and flexibility of their production processes for rail freight services. The overall economic benefits of the scheme have been estimated to amount to roughly EUR 70 million per annum in an EU-15 context.