Railway transport: infrastructure capacity and levying for their use, safety certification. Railway package

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Adoption of the railway packages is based on the fact that, in spite of efforts to promote the use of rail transport across the EU, efforts are failing. Two railway packages have already been agreed and a third is in the process of being negotiated. This Report focuses exclusively on the “first railway package”, adopted in 2001. The first package consists of three Directives: Directive 2001/12/EC, 2001/13/EC and 2001/14 /EC. Although separate they are closely inter-linked and share the common objective of opening up the EU’s internal market to the railway sector. Focusing exclusively on international freight transport, the first railway package enables any railway undertaking, licensed in accordance with Community criteria, to have access to the internal market’s railway infrastructure on fair, non-discriminatory terms as well as allowing them to offer their services across the EU.

Transposition of the Directives was due to have taken place by 15 March 2003 for the EU-15 and by 1 May 2004 for eight of the ten new EU Member States who operate a railway infrastructure. By 1 January 2006, 24 out of the 25 Member States had formally transposed the Directives of the first railway package into their national legislation, with Luxembourg committing itself to implementing the package in the first half of 2006.

Given that failure to implement the Directives has serious repercussions, the Commission has not hesitated in starting infringement proceedings against those countries who are in breach of their obligations vis-à-vis the first railway package. Implementation, the Commission stresses, must be done uniformly and to the letter, if the Directive’s objectives are to be realised.

This Report offers a global evaluation of the Directive’s transposition. The details are set out in Annex to the Report. In summary, the Commission finds that:

- On the separation of accounts, the reform process is not yet complete. In many cases the accounts fail to comply with the Directive’s specifications. The Commission urges that the 2005 and 2006 accounts be published according to the Directive’s requirements.

- On the separation between essential functions, work still remains to be done in this area in many of the Member States.

- On the creation of an independent regulatory body, the Commission stresses the importance of monitoring the railway market independently and the need to have an independent arbitrator on disputes between the infrastructure operator and the railway undertakings. The Report finds that this body does not, in all cases, have the human, financial and administrative resources needed for it to fulfil this function.

- On the granting of infrastructure access rights, the Commission encourages the gradual introduction of standard contracts between the infrastructure manager and the railway undertaking (s).

- On the introduction of a charging system, the Report stresses the importance of not promoting cross-funding between freight traIns and passenger trains through the infrastructure charging system.

Since the adoption of the first railway package in 2001 figures indicate that railways' share of the freight market has been stabilising in the EU-25. It is not insignificant that the best performing Member States, in terms of rail freight use, are those who first reformed their railway industries.

To conclude, the Report notes that the railway industry, which has been in permanent decline since 1970, has managed to stabilise the volumes transported. In some Member States, freight rail has even managed to take away market share from the roads. Similarly, the fall in employment has also been halted. The Commission believes that implementation of the first railway package by the Member States is well underway but that more needs to be done for it to be complete. It calls on the Member States to do more towards:

- completing their restructuring programmes and to ensure the separation of accounts and essential tasks;

- establishing rail infrastructure charging;

- creating the necessary independent administrative infrastructure needed to implement the first railway packages' provisions;

- clarifying national regional transport authorities' financial ties with the railway undertakings;

- prohibiting cross-subsidisation between freight and passenger transport operations; and

- creating transparent requirements for accessing training centres and the awarding of safety certificates.

The Commission calls on infrastructure managers to:

- improve the content and visibility of their network statements;

- set charges based on real costs; and

- co-operate at a European level on the granting of international paths and to establish harmonised conditions for infrastructure access based on standard contracts.

In the meantime, the Commission will observe the market situation closely and will take action in cases of breaches by starting infringement procedures and/or proposing amendments to the existing Directives in cases of persistent short-comings.