Basic information

1998/0265(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Development of Community's railways (amend. Directive 91/440/EEC). Railway package See also 1998/0266(COD) See also 1998/0267(COD) Repealed by 2010/0253(COD) See also 2010/2556(RSP) **Subject** 3.20.02 Rail transport: passengers and freight	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
DELE EP Delegation to Conciliation Committee	JARZEMBOWSKI Georg (PPE-DE)	25/08/2000

Former committee responsible	Former rapporteur	Appointed
RETT Regional Policy, Transport and Tourism	JARZEMBOWSKI Georg (PPE-DE)	19/04/2000
TRAN Transport and Tourism	SARLIS Pavlos (PPE)	27/10/1998

Former committee for opinion	Former rapporteur for opinion	Appointed
ECON Economic and Monetary Affairs, Industrial Policy	WIBE Sören (PSE)	10/11/1998

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	2169	1999-03-29
Transport, Telecommunications and Energy	2324	2000-12-20
Transport, Telecommunications and Energy	2119	1998-10-01
Transport, Telecommunications and Energy	2234	1999-12-09
Transport, Telecommunications and Energy	2191	1999-06-17
Transport, Telecommunications and Energy	2252	2000-03-28
Transport, Telecommunications and Energy	2204	1999-10-06

	Transport, Telecommunications and Energy	2142	1998-11-30

European Commission	Commission DG	Commissioner
	Energy and Transport	

Key events

Date	Event	Reference	Summary
29/09/1998	Legislative proposal published	COM(1998)0480	Summary
01/10/1998	Debate in Council		
23/10/1998	Committee referral announced in Parliament, 1st reading		
30/11/1998	Debate in Council		
17/02/1999	Vote in committee, 1st reading		Summary
17/02/1999	Committee report tabled for plenary, 1st reading	A4-0058/1999	
09/03/1999	Debate in Parliament		
29/03/1999	Debate in Council		
17/06/1999	Debate in Council		
28/07/1999	Vote in committee, 1st reading		
28/07/1999	Committee report tabled for plenary confirming Parliament's position	A5-0005/1999	
16/09/1999	Decision by Parliament, 1st reading	T5-0015/1999	
06/10/1999	Debate in Council		
25/11/1999	Modified legislative proposal published	COM(1999)0616	Summary
28/03/2000	Council position published	05386/1/2000	Summary
13/04/2000	Committee referral announced in Parliament, 2nd reading		
21/06/2000	Vote in committee, 2nd reading		Summary
21/06/2000	Committee recommendation tabled for plenary, 2nd reading	A5-0173/2000	
04/07/2000	Debate in Parliament		
05/07/2000	Decision by Parliament, 2nd reading	T5-0295/2000	Summary
25/08/2000	Parliament's amendments rejected by Council		
11/10/2000	Formal meeting of Conciliation Committee		
22/11/2000	Final decision by Conciliation Committee		Summary
08/12/2000	Joint text approved by Conciliation Committee co-chairs	3660/2000	
20/12/2000	Decision by Council, 3rd reading		
18/01/2001	Report tabled for plenary, 3rd reading	A5-0013/2001	
31/01/2001	Debate in Parliament		

01/02/2001	Decision by Parliament, 3rd reading	T5-0046/2001	Summary
26/02/2001	Final act signed		
26/02/2001	End of procedure in Parliament		
15/03/2001	Final act published in Official Journal		

Technical information

Procedure reference	1998/0265(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	See also 1998/0266(COD) See also 1998/0267(COD) Repealed by 2010/0253(COD) See also 2010/2556(RSP)
Legal basis	EC Treaty (after Amsterdam) EC 071
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/13563

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0058/1999 OJ C 153 01.06.1999, p. 0003	17/02/1999	
Text adopted by Parliament, 1st reading/single reading		T4-0165/1999 OJ C 175 21.06.1999, p. 0098-0118	10/03/1999	Summary
Committee final report tabled for plenary, 1st reading /single reading		A5-0005/1999 OJ C 054 25.02.2000, p. 0010	28/07/1999	
Text adopted by Parliament confirming position adopted at 1st reading		T5-0015/1999 OJ C 054 25.02.2000, p. 0056-0079	16/09/1999	Summary
Committee recommendation tabled for plenary, 2nd reading		A5-0173/2000 OJ C 121 24.04.2001, p. 0010	21/06/2000	
Text adopted by Parliament, 2nd reading		T5-0295/2000 OJ C 121 24.04.2001, p. 0034-0106	05/07/2000	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0013/2001	18/01/2001	
Text adopted by Parliament, 3rd reading		T5-0046/2001 OJ C 267 21.09.2001, p. 0019-0046	01/02/2001	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	05386/1/2000 OJ C 288 11.10.2000, p. 0001	28/03/2000	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1998)0480	29/09/1998	Summary
Reconsultation	SEC(1999)0581	28/04/1999	
Modified legislative proposal	COM(1999)0616	25/11/1999	Summary
Commission communication on Council's position	SEC(2000)0635	07/04/2000	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2000)0575	15/09/2000	Summary
Follow-up document	COM(2006)0189	03/05/2006	Summary
Follow-up document	COM(2008)0054	06/02/2008	Summary
Follow-up document	SEC(2008)0131	06/02/2008	Summary
Follow-up document	SEC(2008)0132	06/02/2008	
Follow-up document	SEC(2008)0133	06/02/2008	
Follow-up document	COM(2009)0676	19/12/2009	Summary
Follow-up document	SEC(2009)1687	19/12/2009	
Follow-up document	COM(2012)0459	21/08/2012	Summary
Follow-up document	SWD(2012)0246	21/08/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0556/1999 OJ C 209 22.07.1999, p. 0022	26/05/1999	
CofR	Committee of the Regions: opinion	CDR0059/1999 OJ C 057 29.02.2000, p. 0040	18/11/1999	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3660/2000	08/12/2000	

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Directive 2001/0012 OJ L 075 15.03.2001, p. 0001	Summary

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 21/08/2012 - Follow-up document

In accordance with the requirements of Directive 2001/12/EC, the Commission presents a **third report on monitoring development of the rail market**. The main points are as follows:

Rail freight traffic: the 2009 economic crisis has had a significant impact on rail freight traffic. The crisis resulted in an 18.3% drop in freight transport in tonne-kilometres in the EU-27 in 2009.

- The rebound in the sectors which had been most affected, in particular the steel, chemical and car industries, resulted in a marked inverse trend in 2010, as no fewer than 15 Member States recorded increases of more than 10%, though without returning to 2008 levels at this stage.
- According to figures provided by the CER (*Community of European Railways*), the performance of rail freight in the third quarter of 2011 remained 9.2% lower than that of the third quarter of 2008 across the whole of Europe. The decline has even continued in France and Italy.
- At EU level, it nevertheless appears that the rail sector's modal share is now comparable with pre-crisis levels. The rail sector's share of overall freight transport had experienced a steep decline over previous decades, yet its market share has remained slightly above 11% for a decade, with 10.2% in 2010as a result of the crisis.
- The rail sector's share in land freight transport, which had stabilised since 2002 at 17.1 %, (in 1995 it still had a 20.2 % share), fell in 2010 to 16.2%.

Passenger transport: passenger transport was relatively unaffected by the crisis.

- The decrease in traffic levels in passenger-kilometres was 1.4% for the EU-27 in 2009, where the increase of 3.6% in the EU-15 was not sufficient to offset the decrease of 8.3% in the EU-12 countries.
- Developments in 2010 were mixed, with a less favourable situation again in the EU- 12 (-11.3% in Romania) than in the EU-15, with the highest increase in the United Kingd om (+5.8%).
- The Commission notes that the decline, which started in the 1990s in the EU-12 countries, has nevertheless continued in 2010. In this context, there is a **clear correlation** between the recent development of traffic observed in each of the Member States and passenger satisfaction levels as expressed in the survey carried out for the Commission, as borne out, for example, by the positive results in the United Kingdom and Lithuania.
- The **rail sector's share of the passenger transport market** in the EU-27 has increased slightly over recent years, rising from 5.9% in 2004 to 6.3% in 2010. However, considerable differences remain between the Member States with railway networks, as this share accounted for some 10% or more in Hungary and in Austria, but scarcely 2% in Estonia and a little more than 1% in Greece.
- **Opening up of the freight market**: the opening-up of the market gathered pace in the rail freight sector during the crisis, albeit at a varying speed from one Member State to the next. At EU level, the number of licences has increased by nearly 16% for the freight sector in two years. It should be noted that this figures does not include national licences, significant numbers of which are still issued by some Member States (undertakings which provide exclusively regional rail freight services may hold national licences only).
- In terms of tonne-kilometre, undertakings other than the largest operator hold the largest market shares in Romania (55%), the United Kingdom (51%) and Estonia (43%).
- Over two years during the crisis, the market share of non-incumbent operators increased significantly in several Member States (from 10% to 23% in Latvia, from 14 to 27% in Belgium and from 10 to 20% in France), while it remained zero or close to zero in Finland, Ireland, Lithuania and Luxembourg.

- In addition, some incumbent operators now have significant market shares in other European countries as a result of subsidiary undertakings operating locally. The crisis has not generally slowed down the progress of new entrants on different national markets. It is important to note in this context that increasing the number of competitor operators has not had a detrimental impact on the high level of safety of this transport mode.

Opening up of the passenger market: the effective opening up to competition of the passenger market is taking place gradually, but now involves a majority of Member States.

New entrants have particularly high market shares in the United Kingdom (90%), Estonia (50%) and Poland (48%), while countries where the incumbent operator still controls the whole of the market are now in a minority (Belgium, Greece, Spain, Finland, Ireland, Lithuania, Slovenia and Slovakia). However, in some Member States such as Poland, new operators are the result of the partial break-up of the incumbent operator and hold de facto monopolies in their respective regions. This situation is largely due to the fact that the opening up of the domestic rail passenger transport market occurred at a more or less early stage in the different Member States: from 1992 in Sweden, in 1994 in Germany, in 1995 in the United Kingdom, then in Denmark and in Italy, and subsequently in a further ten EU countries.

As regards **international passenger transport**, which was opened up to competition by European legislation on 1 January 2010, alliances between incumbent operators remains the most common operating mode. However, services are gradually appearing on several routes that are in competition with the services provided by the incumbent operator of one of the countries served.

Conclusion: the Commission indicates that the market monitoring process will be complemented in the short term by the publication of a Eurobarometer study on the opening-up of the domestic rail passenger market, currently being undertaken. The results of the study will be taken into account in the preparation of the future legislative proposal on the opening-up of the domestic rail passenger market.

In this connection, the Commission recalls its White Paper 'Roadmap to a Single European Transport Area -Towards a competitive and resource efficient transport system', stating that it intends to propose a 'fourth railway package' with the objective of opening up domestic passenger transport to competition, improving access to infrastructure and associated services, as well as extending the European Railway Agency's tasks in the area of certification.

Lastly, the recast of the directives of the first railway package has enabled developments in the areas of regulatory supervision, infrastructure financing and charging and market access conditions. A formal network of regulatory bodies will be created for coordination and exchange of best practice, together with a clause stipulating a review in 2014.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 26/02/2001 - Final act

PURPOSE: to promote the European railway sector by creating conditions conducive to the development of a dynamic and competitive rail system based on the needs of the client. COMMUNITY MEASURE: Directive 2001/12/EC of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways. CONTENT: the present directive is part of the 'rail transport package' which defines the Trans European Rail Freight Network (TERFN). It allows European rail transport companies access to this network in order to operate international freight services in the Community, subject to the conditions stipulated in the directives. The present directive amends Council Directive 91/440/EEC on the develoment of the Community's railways so as to take account of developments in the railway sector since its adoption, in order to ensure that the objectives are reached. In accordance with the objective of completing the internal market, which will include the possibility for all licensed railway undertakings meeting the safety conditions to provide services, access rights should, for a transitional period of up to 7 years, be extended to licensed railway undertakings for the international transport of goods on a defined network, called the TERFN, including access to and supply of, services in major terminals and ports. After this transitional period, the TERFN should cover the entire European rail network and the railway undertakings should be granted rights of access for international freight transport. Whatever the mode of operation, railway undertaking within a certain scope, shall be granted, on equitable conditions, the access that they are seeking in the TERFN after 15 March 2008, to the entire rail network, for the purpose of operating international freight services. Not later than 15 September 2001, the Commission shall make the necessary arrangements to monitor technical and economic conditions and market developments of European rail transport. Lastly, Member States shall ensure that safety standards and rules are laid down, rolling stock and railway undertakings are certified accordingly and accidents investigated. These tasks shall be accomplished by bodies or undertakings that do not provide rail transport services themselves and are independent of bodies or undertakings that do so, in such a way as to guarantee equitable and non-discriminatory access to infrastructure. ENTRY INTO FORCE: 15/03/2001 IMPLEMENTATION DEADLINE: 15/03/2003

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 29/09/1998 - Legislative proposal

OBJECTIVE: the proposal for a directive forms part of a package of measures intended to ensure fair and non-discriminatory treatment of railway undertakings and the efficient use of infrastructure. It seeks to strengthen Directive 91/440 on the development of the Community's railways in order to improve the achievement of its objectives. SUBSTANCE: the main amendments proposed by the Commission seek to: - specify that there should be complete separation of accounts and separation of functions that determine access to the railway infrastructure; - establish that the infrastructure manager may be a public or private undertaking as well as a public body; - clarify that the separation of accounts between transport services and

infrastructure management means separation of both profit and loss accounts and of balance sheets; - introduce greater transparency in the finances of passenger and freight transport services by requiring separate accounts for each of these areas; - ensure fair and non discriminatory access to infrastructure by entrusting safety regulation to bodies or undertakings that do not supply rail transport services themselves and are independent of bodies or undertakings doing so; - clarify that in the interests of efficiency infrastructure managers, like railway undertakings, should have a status independent of the State, should have business plans and should be free to manage their internal affairs.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 06/02/2008

This Communication sets out the measures that Member States and infrastructure managers should take to combine financial equilibrium with an appropriate level of rail infrastructure services. In particular, it covers multi-annual contracts for rail infrastructure quality.

EU legislation requires setting incentives to reduce the cost of infrastructure provision and of consequent infrastructure charges. Whereas the Community has established detailed requirements for safety management and accident (data) reporting, there are no such obligations as yet at Community level for monitoring infrastructure service. Member States may choose to meet this obligation by way of regulatory measures and/or contractual agreements, known as multi-annual contracts. These agreements represent a long-term financing arrangement for infrastructure maintenance. Such agreements are concluded for at least three years, i.e. longer than the traditional annual budgeting. Contract terms and the structure of payments have to be decided in advance for the entire contract duration.

The state of play regarding the use of multi-annual contracts varies considerably across Member States. About half neither use nor plan to make use of them. Some Member States provide no finance for rail infrastructure maintenance in the first place, some are in the process of negotiating contracts for the first time, and others are preparing to extend them for a new multi-annual period.

Maintenance of infrastructure does not always get the attention and finance that railway operators expect in order to compete with other modes of transport. Almost one third of infrastructure managers state that the finance available is not sufficient to maintain their network. There are huge differences in expenditure on maintenance per track km in the various Member States, sometimes up to 30 times. This discrepancy suggests that some networks may be building up maintenance backlogs, which the infrastructure manager is not able to finance. This large discrepancy may imply that in some cases maintenance may not be sustainable, whereas in other cases infrastructure managers may not have exploited cost reduction potentials in the same way all over Europe.

Infrastructure managers in some European countries have gained valuable experience in using multi-annual contracts. The Commission thinks it would be useful if this approach were applied more widely on the basis of existing best practices. In order to promote best practice in the use of multi-annual contracts, the need for further action is considered at three levels: Member States, infrastructure managers and regulatory bodies:

- Best practice requires that Member States should conclude multi-annual contracts with their infrastructure managers. However, where no such contracts exist, Member States should at least provide for the infrastructure manager to commit resources, including in-house provision or contracting, for periods of more than three years;
- Member States and their infrastructure managers have to ensure that multi-annual contracts are consistent with the national strategic transport plans and the infrastructure manager's business plan. The same holds true for infrastructure franchises and for any framework contracts between railway undertakings and infrastructure managers;
- The state should consult stakeholders on any proposal for multi-annual contracts before letting a new contract or renegotiating existing provisions. It then negotiates the size and the quality of the network;
- Member States should step up their efforts and reduce costs and charges for infrastructure provision and use. To this end, Member States should agree, monitor and enforce quantified cost reduction targets over periods of at least three years;
- Infrastructure managers should measure track condition at least once a year on all their lines, and more frequently on their main lines;
- Based on these measurements, infrastructure managers have to define and publish indicators making it possible to assess and predict infrastructure quality and performance on an annual basis for the duration of the multi-annual contract;
- Discretionary intervention by the state in infrastructure management should be limited to cases provided for in the contract, while the infrastructure manager pursues the agreed objectives with a broad measure of management independence. Otherwise the agreement or contract needs renegotiating;
- Infrastructure managers should report in the network statement when lines are not appropriately maintained and infrastructure quality is deemed to be in decline; otherwise infrastructure will be taken out of service. This information should be timely enough to enable it to act as an early warning system for users;
- An independent body should be tasked with monitoring compliance with a multi-annual contract and with mediating between the parties to the multi-annual contract in the event of any dispute. This presupposes having the appropriate staff and expertise to carry out this type of assessment.

Lastly, multi-annual contracts can be a precursor for making better use of competitive tendering for infrastructure services. It will be difficult to put an entire national network out to tender at once. To minimise any possible negative effects, safeguard measures need to be taken to ensure simple and non-discriminatory access rules, ensuring respect of the rules on competition.

At this stage, the Commission will consider including a number of the previous recommendations in its proposal for recasting the first rail package, planned for 2008.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 07/04/2000 - Commission communication on Council's position

The Commission tried to take into account as much as possible the views of the European Parliament expressed during the first reading either by taking up the amendment in its exact wording and entirety or by amending its proposal in the spirit of the Pariament's view. The Commission notes that there are some differences between its proposal and the common position, in particular as regards the completion of the common market for rail transport services and the separation between infrastructure management and transport operations. The Commission is, however, of the opinion that the overall compromise found by the Council after intensive discussions and efforts of three of its Presidencies is a well-balanced step forward in railway policy. It will contribute to a sustainable development of this mode of transport. The Commission, furthermore, underlines that the completion of the single market for rail transport services must remain the final goal. The Commission is, nevertheless, convinced that this second step of reform of the legal framework for rail transport services represents an important step and, therefore, issues a positive opinion.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 03/05/2006

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.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 16/09/1999

The European Parliament confirmed its first reading in the context of the codecision procedure of the text that it adopted on 10.03.1999 concerning this proposal for a directive.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 06/02/2008

This Commission Staff Working Paper, which accompanies a Communication on multi-annual contracts for rail infrastructure quality, offers an overview of statistics and figures. They include:

- Annex 1: Financial contributions provided by Member States for infrastructure operation, maintenance, renewals and construction (in EUR million for 2006):
- Annex 2: Investments in maintenance, renewals and new construction of rail infrastructure, including Investment in EUR per km of lines.
- Annex 3: The third Annex sets out the main elements that need to be agreed in a multi-annual contract such as its scope, targets, the designation of an independent body, the financial plan and minimum reporting requirements. By creating a stable and predictable longer-term framework for infrastructure development, multi-annual contracts have a number of advantages including: independent managers, financial stability, transparency, cost-efficiency, predictability in terms of charges, service quality, greater responsiveness to customer needs as well as social benefits.
- Annex 4: This Annex sets out in figures implementation of the multi-annual contracts for rail infrastructure quality.
- Annex 5: Annex 5 assesses firstly, links between costs and infrastructure quality and secondly, measures infrastructure quality.
- Annex 6: The paper concludes by offering two case studies on multi-annual contracts. The first concerns Poland and the second England.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 05/07/2000 - Text adopted by Parliament, 2nd reading

By approving the report drafted by Mr Georg JARZEMBOWSKI (EPP-ED, D), the European Parliament adopted, under codecision procedure, second reading, the legislative resolution on the Council common position with a view to the adoption of a European Parliament and Council Directive amending Council Directive 91/440/EEC on the development of the Community's railways. However, this report was subject to amendments which relate in particular to: - the extension of the conditions to provide services and access rights for a transitional period; - the railway undertakings being granted rights of access to the entire European rail network for both national and international freight transport after the transitional period; - the extension of access rights, these should not be extended later than 2010 to include, on equitable conditions, all international passenger transport; - the application of paragraph 3 which shall be subject to a report by the Commission, to be submitted by four years after the entry into force of this Directive; - the Trans-European Rail Freight Network, the access that the railway undertakings are seeking to the Trans-European Rail Freight Network for a transitional period of five years after the entry into force of this Directive for the purpose of operating international freight services; - the monitoring of the use of networks and the evolution of the framework conditions in the rail sector shall be monitored by the Commission.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 15/09/2000 - Commission opinion on Parliament's position at 2nd reading

The amendend proposal on the development of the Community's railways seeks to replace Directive 91/440/EEC. Of the 15 amendments proposed by the European Parliament, the Commission rejected 5 amendments relating to access rights and opening of the market, it rejected the 2 amendments relating to derogation for the various Member States and finally, it rejected one amendment relating to the overseeing of the fulfilment of public service obligations. By contrast, the Commission accepted 7 amendments in full.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 19/12/2009 - Follow-up document

The Commission presents its second report on monitoring development of the rail market. The report sets out the main trends observed during recent years across the EU rail market, particularly during 2008. In addition to the consequences of the current economic crisis – which are as yet unclear – it has nevertheless been confirmed that **the development of a European rail area and the gradual opening up of the market to competition have allowed the share of the railways in the transport sector to stabilise**. The document also provides an overview of the initial tangible effects of the crisis which has affected the sector since mid-2008. Its impact has been more evident in the rail freight sector than in the passenger transport sector. The crisis is also affecting the rolling stock segment to a greater extent than infrastructure, which is expected to benefit most from the economic recovery measures planned by Member States.

The recovery plans announced are expected to benefit the rail network to the tune of up to EUR 20 billion, primarily in EU-15 countries. However, doubts have been raised regarding whether certain countries are financially capable of providing all of the investments that were provided for in spite of budgetary difficulties and the increase in debt which are expected. For its part, the EU has mobilised available funds in order to participate in these recovery efforts and in order to speed up the development of trans-European networks, inter alia by bringing forward the allocation of EUR 500 million under the TEN-T budget. On the other hand, in the context of the current crisis, an acceleration of consolidation in the rail freight sector can be seen, marked by the expansion abroad of groups like DB Schenker.

The main points of the report are as follows:

Operation of the EU rail transport market: with regard to freight transport, the report notes that after several years of a constant decrease which was particularly marked in new Member States, rail freight transport has grown at a not insignificant rate between 2000 and 2007. This is particularly the case in certain countries where non-incumbent rail undertakings have acquired significant market shares. In 2007, EU-27 countries saw a rise in rail freight transport of 2.8 %, as opposed to 1.1 % in EU-12 countries and 3.7 % in EU-15 countries. In 2008, trends in rail freight transport varied enormously across the EU-27 group of countries. Transport in this sector fell by 29.2 % in Estonia and 21.5 % in Ireland, whilst in Denmark and Latvia it increased by 9.7 % and 6.9 % respectively. Since mid-2008, the economic crisis has had a major impact on the transport of goods by rail, affecting, inter alia, the economic sectors that traditionally used rail freight services, such as the mining and steel, chemical and automobile industries. Provisional data would put this reduction at approximately 28 % across the EU as a whole between the second quarter of 2008 and the second quarter of 2009.

With regard to passenger transport, provisional CER figures indicate that between the second quarter of 2008 and the second quarter of 2009, passenger transport fell by 5 % in EU-15 countries, and by 0.7 % in EU-12 countries. This would appear to be more pronounced for business travel, where it potentially exceeded 10 %.

Opening up of the rail market: there are over 600 rail operating licences in the freight sector, including 315 in Germany and 67 in Poland. The number of licences in the passenger sector now exceeds 450, including 302 in Germany and 45 in the United Kingdom. With regard to passenger transport, non-incumbent undertakings have particularly large market shares in Estonia (58 %), in Sweden, and also in the United Kingdom, where several undertakings created in the wake of the previous monopoly have been integrated into a variety of holdings. As far as freight is concerned, the Estonian, UK and Romanian markets are the most open. De facto monopolies still exist in several Member States.

Performance of railway undertakings: the report notes that on **financial health**, there is also another significant disparity between rail undertakings' performance in EU-15 and those in EU-12 countries. The poor financial health of EU-12 railway undertakings is mostly due to insufficient payment in respect of the provision of public services, undertakings' continued debts to the State and the poor investments made by certain operators in recent years. The current crisis is affecting all EU-27 countries, hence a general worsening in undertakings' health.

Trends in infrastructure investment: the EU-12 group of countries can be characterised by the poor level of investment provided for rail transport. 2006 figures provided by the CER indicate that average investment per kilometre for the maintenance of railway lines was five times higher in EU-15 countries than in EU-12 countries. It should also be noted that there has been stagnation in rail investment co-financed under the cohesion policy, compared to figures for the period 2000-2006. This finding is striking, despite a very favourable situation marked by a 69 % increase in the budget allocated to transport under regional policy. Within EU-12 countries, the 'rail' proportion of total national investment in the transport sector is largest in Slovenia, Lithuania, the Czech Republic and Slovakia and lowest in Poland. Investment in road infrastructure is therefore far higher than investment in rail, in both western Europe and especially in EU-12 countries.

Particularly since 2008, the Commission has received several complaints on the operation of the market, particularly in relation to the conduct of market players, for example as regards the management of terminals and access to services. It is in the light of these comments that the Commission is considering clarifying or amending certain provisions contained in the first rail package by means of a recasting exercise. It is in the light of these comments that the Commission is considering clarifying or amending certain provisions contained in the first rail package by means of a recasting exercise.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 28/03/2000 - Council position

The Common Position fully embraces the common objective of the proposals submitted by the Commission. It also endorses the broad lines of the means proposed in this Directive to attain that objective. Nevertheless, the wording of the proposal has been altered considerably in the course of discussions in Council. The key points of the Common Position are given below. It should be pointed out that there are several points on which the Common Position differs from the original proposal; on the other hand, the Common Position is much closer to the Commission's amended proposal. The main amendments made by the Council are as follows: - train operations which are limited to providing solely shuttle services for road vehicles through the Channel Tunnel, are to be excluded from the scope of the Directive; - it is specified that the term "railway undertaking" also includes undertakings which provide traction only. Furthermore, the Common Position has also introduced a new definition of "international freight service" so as to avoid any interpretation problems with Article 10(3) arising from the fact that one and the same wagon may form part of different trains in the course of one journey, and to specify that this provision does not include cabotage rights. The Council has added paragraphs relating to the separation of rail operating service from infrastructure management activities in order to secure the objective of fair and non-discriminatory access to them. To this end, the Common Position provides as follows that: - the objective in question must be shown to have been achieved; - undertakings which provide rail transport services may not be entrusted with essential functions, in particular, those relating to the issue of licences, allocation of train paths and charging for railway infrastructure. However, railway undertakings can be entrusted with merely collecting the charges and with managing infrastructures outside these essential functions, for example with investment, maintenance and financing; - these rules on separation may be waived if a Member State has established an independent rail regulator to ensure neutral, non-discriminatory access to the infrastructure; - the Directive does, however, provide for two mechanisms to guarantee neutral, non-discriminatory access to infrastructures: the Commission is required to submit a report on this subject within the framework of the European Rail Observation system. Moreover, it is provided that the Commission, assisted by an advisory committee, be able to examine and possibly annul the right of access measures taken by a Member State in the event that they are not equitable. With regard to the safety standards, the Common Position establishes the responsibilities of the Member States in the field of safety and then refers to the bodies which are to accomplish the corresponding tasks, including a reference to the principle that those bodies are to be independent of railway undertakings. It, nevertheless, provides a derogation from that principle for the enforcement and monitoring of safety standards and rules, provided neutral and non-discriminatory execution of these functions is guaranteed. Finally, it provides that the mechanisms for guaranteeing the non-discrimination in the essential functions is also applicable on the subject of safety. Moreover, the Council has taken care to clarify the text by indicating that public funds for activities relating to passenger-transport services must be shown separately in railway company accounts. In addition, the Common Position extends the right to access and transit via the railway infrastructures of the Member States to all railway undertakings for the purpose of operating international freight services, although it limits these rights to the most important part of the Trans-European Rail Freight Network, the TERFN. Lastly, the Common Position provides for the creation of a European Rail Observation System, the tasks for which are described in Article 10b, and that it should be run by the Commission. Several derogations are provided for in the Common Position concerning the application of certain measures in Ireland, Northern Ireland and in Greece, as well as for Luxembourg.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 01/02/2001 - Text adopted by Parliament, 3rd reading

The European Parliament adopted the report by Georg JARZEMBOWSKI (EPP/ED, D). (Please refer to the previous documents).

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 25/11/1999 - Modified legislative proposal

The Commission's amended proposal accepts the European Parliament's amendments relating to : - the creation of entities separate from railway undertakings for infrastructure management after a short transitional period. This is a further step in separation, beyond that originally considered strictly necessary by the Commission, to achieve the aims of fair and non-discriminatory access to infrastructure, efficient operation and development of two distinct activities, transparency of railway finances and public support , and creation of a solid basis for setting infrastructure charges. Complete separation of transport services and infrastructure management into distinct entities would further advance the achievement of these objectives. Although the Commission accepts this amendment, it modifies the wording proposed by the Parliament to specify that each entity must have its own legal personality and places the new text in the section dealing with separation ; - the transitional period. This would oblige Member States to organise distinct divisions within a single undertaking for transport services and for infrastructure management until the separation into different entities according to Article 6, paragraph 1, takes place. This the Commission accepts but proposes to place the respective text into Article 6, paragraph 1 instead of paragraph 2. The second major change, proposed by the European Parliament and accepted by the Commission, deals with open access to

railway infrastructure for international freight services. Like the Parliament, the Commission is convinced that market opening is essential to revitalise rail freight and should be undertaken in steps. It would attract new operators, bringing new ideas, fresh management and additional capital, and stimulate existing operators to improve their performance. In 1995, it proposed the creation of access rights for supplying all freight and for international passengers services and, in 1998, launched the idea of opening the freight market by stages. The Commisssion fully accepts, however, that priority should be given to establishing access rights for international freight services. The existing arrangements, under which railway undertakings are only responsible for that part of the service on their own territory, do not allow the development of seamless international services or give incentives to lower the cost and improve the quality of service. The Commission supports the Parliament's intentions. Following the Parliament's view that the opening of the rail market should be undertaken in stages, it however proposes as a first step to give access to international freight services on a defined European network, called the Trans European Rail Freight Network. Furthermore, the Commission will, 2 years after the date by which Member States have to comply with this Directive, report and make appropriate proposals. The Commission will also be assisted by an advisory committee. On the other hand, the Commission's amended proposal does not accept the amendments relating to : - the removal of the reference in recital 4 (now numbered 7) to the laying down of safety rules from the text proposed by the Commission.

Development of Community's railways (amend. Directive 91/440/EEC). Railway package

1998/0265(COD) - 10/03/1999 - Text adopted by Parliament, 1st reading/single reading

At first reading under cooperation procedure, the European Parliament approved the proposal for a Council directive amending directive 91/440/EEC on the development of the Community's railways subject to amendments, notably in the following areas: - underlining that rail liberalisation should proceed in stages in conjunction with the parallel implementation of the necessary accompanying harmosation measures; - requiring access rights at this stage to be extended to all railway undertakings for the international transport of goods; - suggesting that in addition to the enforcement of safety rules, the monitoring of safety and the investigation of serious accidents should also be carried out by independent bodies; - ensuring the access to Member States' networks for railway undertakings engaged in the international transport of goods and international groupings of railway undertakings; - extending the definition of "infrastructure manager" to include any body involved in operating the control and safety systems; - requiring the Member States to create entities, separate from railway undertakings, for the management of their railway infrastructure, not later than 2 years after the directive's entry into force; - requiring the organisation of distinct divisions within a single undertaking until this has been done; - ensuring the highest possible level of safety standards. The Parliament's rapporteur is Pavlos Sarlis (PPE,GR).