Basic information

1998/0266(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Licensing of railway undertakings. Railway package Amending Directive 95/18/EC 1993/0488(SYN) See also 1998/0267(COD) Repealed by 2010/0253(COD) See also 1998/0265(COD) See also 2010/2556(RSP) **Subject** 3.20.02 Rail transport: passengers and freight 3.20.10 Transport undertakings, transport industry employees	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
DELE EP Delegation to Conciliation Committee	SWOBODA Hannes (PSE)	25/08/2000

Former committee responsible	Former rapporteur	Appointed
RETT Regional Policy, Transport and Tourism	SWOBODA Hannes (PSE)	19/04/2000
TRAN Transport and Tourism	SWOBODA Hannes (PSE)	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	2234	1999-12-09
Transport, Telecommunications and Energy	2252	2000-03-28
Transport, Telecommunications and Energy	2324	2000-12-20
Transport, Telecommunications and Energy	2204	1999-10-06
Transport, Telecommunications and Energy	2169	1999-03-29
Transport, Telecommunications and Energy	2142	1998-11-30
Transport, Telecommunications and Energy	2191	1999-06-17

European Commission	

Commission DG	Commissioner
Energy and Transport	

Key events

Date	Event	Reference	Summary
29/09/1998	Legislative proposal published	COM(1998)0480	Summary
23/10/1998	Committee referral announced in Parliament, 1st reading		
30/11/1998	Debate in Council		
17/02/1999	Vote in committee, 1st reading		
17/02/1999	Committee report tabled for plenary, 1st reading	A4-0059/1999	
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	Summary
06/10/1999	Debate in Council		
25/11/1999	Modified legislative proposal published	COM(1999)0616	Summary
28/03/2000	Council position published	05387/1/2000	Summary
13/04/2000	Committee referral announced in Parliament, 2nd reading		
21/06/2000	Vote in committee, 2nd reading		
21/06/2000	Committee recommendation tabled for plenary, 2nd reading	A5-0171/2000	
04/07/2000	Debate in Parliament		
05/07/2000	Decision by Parliament, 2nd reading	T5-0296/2000	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	3661/2000	
20/12/2000	Decision by Council, 3rd reading		
18/01/2001	Report tabled for plenary, 3rd reading	A5-0014/2001	
31/01/2001	Debate in Parliament		
01/02/2001	Decision by Parliament, 3rd reading	T5-0047/2001	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	1998/0266(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Amending Directive 95/18/EC 1993/0488(SYN) See also 1998/0267(COD) Repealed by 2010/0253(COD) See also 1998/0265(COD) See also 2010/2556(RSP)
Legal basis	EC Treaty (after Amsterdam) EC 071
Stage reached in procedure	Procedure completed

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0059/1999 OJ C 153 01.06.1999, p. 0003	17/02/1999	
Text adopted by Parliament, 1st reading/single reading		T4-0166/1999 OJ C 175 21.06.1999, p. 0098-0120	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		A5-0171/2000 OJ C 121 24.04.2001, p. 0010	21/06/2000	
Text adopted by Parliament, 2nd reading		T5-0296/2000 OJ C 121 24.04.2001, p. 0034-0112	05/07/2000	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0014/2001	18/01/2001	
Text adopted by Parliament, 3rd reading		T5-0047/2001 OJ C 267 21.09.2001, p. 0019-0047	01/02/2001	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	05387/1/2000 OJ C 178 27.06.2000, p. 0023	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)0636	07/04/2000	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2000)0571	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	
Follow-up document	SEC(2008)0132	06/02/2008	
Follow-up document	SEC(2008)0133	06/02/2008	

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	CDR0058/1999 OJ C 057 29.02.2000, p. 0040	18/11/1999	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3661/2000	08/12/2000	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2001/0013
OJ L 075 15.03.2001, p. 0026 Summary

Licensing of railway undertakings. Railway package

1998/0266(COD) - 15/09/2000 - Commission opinion on Parliament's position at 2nd reading

The amended proposal on the licensing of railway undertakings seeks to replace existing Directive 95/18/EC on the licensing of railway undertakings. The proposal forms part of the so-called "infrastrucutre package" consisting of a proposal for a Council Directive amending Directive 91/440/EEC on the development of the Community's railways, a Council Directive amending Directive 95/18/EC on the licensing of railway undertakings and the proposal for a Council Directive on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification. The Commission has accepted the sole amendment adopted by the European Parliament. The Commission's justification for acceptance is that the amendment is in line with the overall purpose of the proposed Directive which is to recall that there are several (national) rules applicable and, because of the amendment proposed, that there is always the possibility to inform the Commission and its services about a specific given situation in the Member States. It will then be up to the Commission whether the appropriate follow-up to such an information leads to an infringement procedure or another measure.

Licensing of railway undertakings. Railway package

1998/0266(COD) - 16/09/1999 - Text adopted by Parliament confirming position adopted at 1st reading

The European Parliament confirmed the 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.

Licensing of railway undertakings. Railway package

1998/0266(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 95/18/EC on the licensing of railway undertakings, subject to amendments in the following areas: - requiring railway undertakings to be adequately insured, in accordance with national and international law, in the event of accidents, in particular in respect of passengers, freight, mail and third parties. The Parliament's rapporteur was Johannes Swoboda (PSE,AT).

Licensing of railway undertakings. Railway package

1998/0266(COD) - 06/02/2008

The purpose of this paper is to set out what measures, both the Member States and infrastructure managers, should take in order to find the right balance between financial equilibrium and an appropriate level of rail infrastructure services. Special attention is given to the use of multi-annual contracts, which the EU rail infrastructure Directives allow for.

To recall, multi-annual contracts are concluded for at least three years, with payments, decided in advance, covering the entire contract duration. The Commission is of the view that it would be useful if this approach were applied more widely on the basis of existing best practices. The use of multi-annual contracts varies considerably across the Member States. Roughly half neither use nor plan to make use of them. Some Member States provide no finance for rail infrastructure maintenance, others are in the process of negotiating contracts for the first time. An increasing number of Member States plan to introduce them, having put in place the requirements under the first railway package.

In 2006, expenditure on maintenance per kilometre of track, ranged from as little as EUR 220 in Slovakia and EUR 16 000 in Poland to up to EUR 160 000 in Germany and EUR 360 000 in the United Kingdom. This large discrepancy, over and above differences in cost levels, may imply that in some cases maintenance is not sustainable, whereas, in other cases, infrastructure managers may not have exploited cost reduction potentials in the same way all over Europe.

Multi-annual contracts represent a long-term financing arrangement for infrastructure maintenance. Stakeholder workshops concluded that multi-annual contracts lead to more informed trade-offs between taxpayers, on the one hand, and users, on the other, between maintenance and the quality of the network and between short-term maintenance and renewal.

Bearing the above in mind, the paper proposes that in future action should be based on three levels: (i) the Member States; (ii) infrastructure managers and (iii) regulatory bodies. Best practice will require that the:

- Member States conclude multi-annual contracts with their infrastructure managers. In cases where such contracts do not exist, Member States should provide for at least one infrastructure manager and to conclude a three-year minimum contract with them;
- Member States, and their infrastructure managers, should conclude multi-annual contracts that are consistent with their national strategic transport plans and the infrastructure manager’s business plan. The same must apply to infrastructure franchises and for any framework contracts between railway undertakings and infrastructure managers;
- Member States should consult stakeholders on any proposal for multi-annual contracts before letting a new contract or renegotiating existing provisions;

- Member States should reduce costs and charges for the provision of infrastructure and use. To this end, the Member States should agree, monitor and enforce quantified cost reduction targets for a three year minimum period;
- infrastructure managers should measure track condition at least once a year on all their lines, and more frequently, on their main lines;
- infrastructure managers should define and publish indicators that allow them to assess and predict infrastructure quality and performance on an annual bases throughout the length of the multi-annual contract;
- Member States should interfere in infrastructure management in cases provided for in the contract and the manager should be given a broad degree of managerial independence;
- infrastructure managers should report, in their network statements, which lines have not been properly maintained and in cases where the quality is deemed to be in decline. This information should be timely enough to allow for prompt action and to act as an early warning system for users;
- 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 vent of any dispute.

On a final point, multi-annual contracts should be a precursor for making better use of competitive tendering for infrastructure services. Given that it will be difficult to put an entire national network out to tender, the tendering process may involve an increasing number of infrastructure managers, network statements, charging systems and access conditions. To minimise any possible negative effects, safeguard measures should be taken that allow for simple, non-discriminatory access rules and that are fully compatible with competition rules. At this stage, the Commission will consider whether or not to include a number of the previous recommendations in its proposal for recasting the first rail package, due in 2008.

Licensing of railway undertakings. Railway package

1998/0266(COD) - 26/02/2001 - Final act

PURPOSE: to upgrade the European railway sector by creating conditions conducive to the development of a dynamic and competitive railway system to meet the needs of clients. COMMUNITY MEASURE: Directive 2001/13/EC of the European Parliament and of the Council amending Council Directive 95/18/EC on the licensing of railway undertakings. CONTENT: This Directive concerns the criteria applicable to the issue, renewal, or amendment of licences by a Member State intended for railway undertakings which are or will be established in the Community. The present Directive increases the provisions of 95/18/EC which introduced a licence for railway undertakings providing international transport services and the combined international transport of goods. Licences granted by a Member State where the rail transport company is established, are valid for the whole of the Community. As a consequence, all transport companies can avail of the possibility of access to new markets on a uniform and non-discriminatory basis and without the licence constituting an obstacle to entry in the market. ENTRY INTO FORCE: 15/03/2001 IMPLEMENTATION DEADLINE: 15/03/2003.

Licensing of railway undertakings. Railway package

1998/0266(COD) - 01/02/2001 - Text adopted by Parliament, 3rd reading

The European Parliament adopted the report by Mr Hannes Swoboda (PES, A). (Please refer to the previous documents).

Licensing of railway undertakings. Railway package

1998/0266(COD) - 05/07/2000 - Text adopted by Parliament, 2nd reading

By approving the report drafted by Mr Hannes SWODOBA (PES, Aust), the European Parliament adopted, under the codecision procedure, second reading, the legislative resolution on the Council's common position for adopting a European Parliament and Council Directive amending Council Directive 95/18/EC on the licensing of railway undertakings. This text was subject to one amendment only which states that a railway undertaking may at any time refer to the Commission the question of the compatibility of the requirements of national law with Community law and also the question of whether such requirements are applied in a non-discriminatory manner. If the Commission finds that the provisions of this Directive have not yet been fulfilled, it shall provide a statement on the correct interpretation of the Directive without prejudice to Article 226 of the Treaty.

Licensing of railway undertakings. Railway package

1998/0266(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.

Licensing of railway undertakings. Railway package

1998/0266(COD) - 07/04/2000 - Commission communication on Council's position

The Commission is of the opinion that because of the fact that some Member States have extended access rights going beyond the requirements of Article 10 of Directive 91/440/EEC, it is necessary to ensure fair, transparent and non-discriminatory treatment of all railway undertakings that may operate in this market by extending the licensing principles to all railway undertakings. Such a step is also necessary in order to achieve a "level playing field". The Commission took into account as much as possible the views of the European Parliament expressed during the first reading by taking up the amendment proposed in relation to Article 8 (insertion of the notion of non-discrimination) in its meaning. The Commission is of the opinion that the overall compromise found by 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 is convinced that this second step of reform of the legal framework for rail transport services represents an important step towards the creation of a "level playing field" for all rail transport enterprises and, therefore, issues a positive opinion.

Licensing of railway undertakings. Railway package

1998/0266(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 extend the scope of Directive 95/18/EC on the licensing of railway undertakings. SUBSTANCE: Directive 95/18/EC on licensing applies only to railway undertakings providing services referred to in Article 10 of Directive 91/440/EEC, namely services subject to access rights. Furthermore, railway undertakings whose activities are restricted solely to urban, suburban or regional transport are excluded from the scope of the Directive. However several Member States have established wider rights of access to infrastructure than those of Directive 91/440/EEC or have launched calls for tenders for urban, suburban or regional services. To guarantee a fair and non-discriminatory application of these rights to all railway undertakings established in the Community, the Commission proposes extending the Community rules on licencing to all these undertakings.

Licensing of railway undertakings. Railway package

1998/0266(COD) - 25/11/1999 - Modified legislative proposal

The Commission welcomes the European Parliament's proposal and integrates it into its proposal. It proposes to modify the wording in order to avoid any misunderstanding as to what the word 'This' in the Parliament's amendments refers to. Furthermore, additional amendments relate to adding a sentence to Article 8 of Directive 95/18/EC requiring the conditions relating to the professional competence to be non-discriminatory. In addition, the Commission did not accept the amendment relating to the inclusion of a sentence which lays down the obligation for railway undertakings to make arrangements to cover their liabilities, the reasons being that this amendment appears to link the need for freight railway undertakings to insure themselves to their willingness to pay more than costs. Such a provision would in any case not be acceptable because the obligation for all railway undertakings, to have adequate insurance arrangements or other arrangements for cover is essential for the protection of any third party involved in accidents and incidents. In conclusion, it is desirable that the obligations imposed on the Member States and the Commission by Directive 95/18/EC are clarified and this is done based upon a common sense interpretation of the existing text and existing practice. Information to be provided by Member States to the Commission would therefore also include information on licenses that have been issued.

Licensing of railway undertakings. Railway package

1998/0266(COD) - 28/03/2000 - Council position

As the text was amended during the discussions in the Council, the Common Position differs from the Commission's proposal and amended proposal on certain points which related to: - the provision of exemptions from the scope of the Directive to be optional for Member States. Thus, Member States which so wish can establish a single model of licence for railway undertakings established in their territory; - the exclusion from the scope of the Directive of the shuttle service for road vehicles through the Channel Tunnel; - the amending of the wording in Article 2(a) to cover companies which provide traction only; - the inclusion of Article 1(4) of the proposal in the Common Position as a new Article 4(5), as the Council considered that this provision should be included among the conditions for obtaining a licence; - the minimum level of security for the operation of the customs and fiscal procedures which new railway undertakings would have to implement; - the obligation of the authority responsible for licensing also to inform the Commission whenever it issues a new licence; - the addition of a reference to the requirements offering benefits or protection to consumers. The Council did not accept the amendments made by the European Parliament which relate to the linking, in the case of freight services, cover of the railway undertaking's civil liability in the event of an accident to the fact that the charges reflect willingness to pay more than the costs imposed and to the fact that the regulatory bodies ensure charges are not excessive. The Council considered that all railway undertakings should have sufficient cover of their liability and that such cover could not be linked to agreement by the railway undertakings to more than costs.