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Activities of the European Commission in rail transport

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Submitted by the European Commission

Fourth Railway Package – Market Pillar

The objective of EU policy for rail is to increase the market share of rail by improving the quality and cost-effectiveness of services, thereby boosting demand. To achieve this objective the EU is now set to finalise the market opening process, which started in the late 1990s, with the implementation of the market pillar of the 4th Railway Package, which was adopted in December 2016.

There are two possible models of competition, and both have a role to play in the EU market. Railway companies can ask for access to the infrastructure for operating open-access services in competition with other services running on the same tracks ('competition in the market'). However, a large part of railway services is provided in the context of public service contracts, which aim to offer citizens a specified level of service, and where the State is willing to pay railway companies for supplying those services if they are not sufficiently attractive from a commercial point of view. While in the past such contracts were mostly directly awarded to incumbent operators, in the future EU railway companies will be able to take part in competitive awards of public service contracts ('competition for the market').

When the 4th RP is fully implemented (and this will take a few more years because the sector needs to adapt to a new competitive environment) all EU railway undertakings will be able to operate EU-wide, with open access services and in the context of public service contracts. Competition is expected to bring substantial benefits for passengers, railway undertakings and taxpayers alike: more quality of service, greater choice, innovation, cost-effectiveness and customer-orientation.

The market pillar proposals of the 4th Railway Package were adopted in December 2016. It will be implemented by Member States in subsequent steps. Member States have time until December 2018 to transpose the Governance Directive in national legislation. However, most of the market opening provisions will take effect only in 2019/2020. As regards the PSO Regulation, which is directly applicable without transposition, the provisions on competitive tendering will take effect as of 2019, with a grace period for the possibility of unconditional

direct awards expiring in 2023. After that date, direct awards will remain possible only in specific and well-defined circumstances.

DG MOVE is preparing further implementing acts to complete the legislative framework in view of market opening.

- The implementing act on Service Facilities (the legal basis for which is the Recast Directive, not the 4th RP) will be key to ensure that new entrants' are granted fair and non-discriminatory access to rail related services and service facilities was adopted on 22 November 2017.
- Delegated Decision on schedule for the allocation process, amending Annex VII of the Directive 2012/34/EU was published on 14 November 2017. The new framework provides, apart from frequency and deadlines for establishing the working timetables, additional rules for integrating the information on upcoming capacity restrictions into the scheduling process. It also enhances coordination/consultation between the infrastructure managers and their customers. The provisions of the decision will be implemented gradually with full implementation foreseen for the establishment of the working timetable taking effect in December 2020.
- The implementing act on Economic Equilibrium Test (foreseen in the 4th RP) will define under which conditions MS can restrict access to domestic rail infrastructure where a new open access service would endanger the economic equilibrium of a public service contract.

At the same time, the Commission is devoting substantial efforts to the enforcement of existing legislation, which remains the priority for DG MOVE.

Fourth Railway Package – Technical pillar

The technical pillar of the 4th Railway Package will enhance interoperability and safety in Europe, in particular through the following measures:

- An *enhanced role of the European Union Agency for Railways (ERA)* in vehicle authorisation and safety certification of railway undertakings and to reduce the number of overlapping and non-transparent national rules. ERA as *One-Stop-Shop* will lead to a faster, cheaper and better coordinated certification procedure moving from a mainly national-based process towards a harmonised process at EU level for both vehicle authorisation and safety certification.
- A renewed framework for railway safety aiming at promoting the safety culture
- An increased harmonisation at EU level to improve railway interoperability
- Stability and alignment of the scope of both interoperability and safety directives
- With these measures, the 4th Railway Package will drive the further harmonisation of the still too complex EU rail system and will drastically reduce the number of national rules (over 11 000) that hinder interoperability, in order to:
 - Promote rail services – only efficient and effective rail will be able to have a competitive advantage over other modes and deliver the mobility of the future.
 - Reduce costs and increase flexibility – an interoperable system means longer production runs, and facilitates moving rolling stock from one place to another in response to changing demand.
 - Increase capacity – harmonisation and interoperability are factors to allow the best possible use of infrastructure and rolling stock.

- Ensure safety – we have to react jointly to any safety vulnerabilities and eliminate them, swiftly and efficiently.
- Maximise the benefits coming from digitisation – not only for signalling but throughout the logistic chain.

The 'technical pillar', which was adopted by the European Parliament and the Council in May 2016, includes:

- Regulation (EU) 2016/796 on the European Union Agency for Railways and repealing Regulation (EC) n° 881/2004,
- Directive (EU) 2016/797 on the interoperability of the rail system within the European Union (Recast of Directive 2008/57/EC),
- Directive (EU) 2016/798 on railway safety (Recast of Directive 2004/49/EC)

Member States have time until 16 June 2019 to transpose the Interoperability and Safety Directives into national legislation, with the possibility to request an extension until 16 June 2020.

In the meantime, DG MOVE is preparing key implementing and delegated acts to complete the legislative framework:

- The Commission Delegated Decision (EU) 2017/1474, setting out the specific objectives that should be pursued by the upcoming revisions of the Technical Specifications for Interoperability (TSIs). Following the entry into force of the decision on 4 September 2017, the Commission developed its TSIs revision planning for 2017-2020 and ERA has now started the TSIs drafting process.
- The Implementing Regulations setting out the practical arrangements for both single safety certificate and vehicle authorisation have been going through positive votes at the Railway Interoperability and Safety Committee (RISC) in July and November 2017 respectively. They will be adopted by the Commission in the first semester of 2018, together with two delegated decisions on Common Safety Methods (CSM) on conformity assessment and supervision.

ERTMS

ERTMS is a major industrial programme to harmonise the automatic train control and communication system and underpin interoperability throughout the rail system in Europe. As the differences among the large variety of national legacy train control systems constitute a very significant barrier to interoperability of the European rail system, deployment of ERTMS will provide the backbone for a digital, connected Single European Rail Area.

The ERTMS European Deployment Plan adopted on 5 January 2017 sets targets dates for trackside deployment until 2023 by which about 40% of the European Core Network Corridors will be equipped.

A recently published (15.11.2017) Commission Staff Working document "Delivering effective and interoperable ERTMS – the way ahead" (SWD(2017) 375) sets out the necessary steps for rail stakeholders to address identified barriers to ERTMS implementation and to achieve ERTMS interoperability.

Combined Transport Directive

The amendment of the EU Directive on Combined Transport (92/106/EEC) (hereafter CTD) is part of the second wave of the "Mobility Package" adopted by the Commission on 8 November 2017.

The EU Directive on Combined Transport (92/106/EEC) is the only dedicated legal instrument in effect to promote modal shift and support non-road alternatives for freight transport by defining the conditions for combined transport and providing for incentive measures supporting the shift of road freight transport to rail, inland waterways and short sea shipping. While still relevant, it needs to be modernised to produce its full effect in terms of modal shift, and hence contribute to reducing CO2 emissions, air pollution, accidents and congestion.

The objective of the amendment of the Combined transport Directive is therefore to further increase the competitiveness of combined transport compared to long distance road freight and, by doing so, to boost the shift from road freight to other modes of transport, thereby reducing the share of transport externalities from freight transport.

The proposed amendment of the CTD will increase the effectiveness of the Directive by:

- simplifying the "eligibility criteria" for the support measures, through a review and clarification of the definition of "combined transport" (i.e. mainly addressing the geographical scope and the distance of the road and non-road leg);
- facilitating the monitoring of eligibility and enforcement (i.e. through types of documents required for control, in particular electronic documents)
- reviewing the economic support measures to bring them up to date (i.e. notably possibly extending the support to inland waterways, short sea shipping and transshipment terminals) and;
- improving the reporting and monitoring conditions by the Member States to increase transparency and further assessment of the impact of the measures

Rail Passenger Rights Regulation

On 27 September 2017, the Commission adopted a proposal for a revision of the Rail Passenger Rights Regulation. The proposal will improve the protection of rail passengers while taking account of the burden on the rail sector. It addresses the following main issues:

- Today, passengers cannot fully exercise their rights when using rail services. This is mainly due to the extensive exemptions that Member States have granted to certain domestic services, but also to outdated provisions for persons with disabilities or reduced mobility and a number of unclear issues such as through-tickets.
- The introduction of a "force majeure" clause will reduce the burden on railway undertakings which will no longer have to pay compensation when delays were caused by major natural disasters or severe weather conditions.

Considering the international obligations to which EU Member States committed by signing the UN Convention on the Rights of Persons with Disabilities (UNCRPD), it is also necessary that the EU shows its responsibility for persons with reduced mobility in the rail sector from the angle of passenger rights.

Transport Community Treaty with Western Balkan States

On 12 July 2017 the European Union signed the Transport Community Treaty with 5 Western Balkan partners. This important achievement will pave the way for infrastructure improvements as well as better quality transport services throughout the region. The Transport Community Treaty will help put into action reforms affecting people's everyday lives, for instance in the field of road safety. By providing more stability, it will also attract new investors in the region and add to its economic growth. Finally, this Treaty will help the Western Balkan countries align their national transport laws with those of the EU, thereby strengthening neighbourly relations, promoting cross-border cooperation and ultimately bringing these countries closer to the European Union. More information is available in a fact sheet (<https://ec.europa.eu/transport/sites/transport/files/2017-factsheet-communitytreaty-wb.pdf>) and on a map indicating infrastructure investments projects (<https://ec.europa.eu/transport/sites/transport/files/2017-factsheet-transportfinancialsupport-wb.pdf>).
