

Fourth Railway Package - Summary Note

The European Commission (EC) approved on 30 January 2013 the Fourth Railway Package with the aim of completing a single European railway area. The package proposes to amend a number of directives and regulations on rail transport services. On 19 March 2013, the European Parliament's Committee on Transport and Tourism (TRAN) officially appointed the rapporteurs who will be leading the discussions on all aspects of the Fourth Railway Package. The decision making process by the European Parliament and the Council which could lead to the adoption of the proposal is expected to take more than a year.

Despite earlier attempts of the Commission to establish an internal market for rail and improve rail efficiency, the modal share of rail has remained modest. This is partly due to suitability issues (for example rail is not practical for many short distance urban journeys such as trips to the supermarket) but also, according to the Commission, because of obstacles to market entry hampering competition and innovation. Under the current system, there are not enough incentives for European and intermodal cooperation. With this package, the Commission's main goal is to remove obstacles to the efficient operation of Infrastructure Managers (IMs), and thus complement the TEN-T policy, the new proposal for Connecting Europe Facility (CEF) and the existing rules on Rail Freight Corridors (RFCs). The ultimate goals are: to increase rail's capacity, efficiency and attractiveness for customers; to encourage modal shift from road and air; and to complete the circle of market opening already achieved in the freight, international passenger and other transport markets.

The proposals of the Commission focus on four key areas:

- Infrastructure governance
- Opening of the market for domestic passenger transport services by rail
- Interoperability and safety
- The social dimension

and the largest part of the suggested reforms concern the first two of them.

Infrastructure governance

On that point, the Commission is proposing to strengthen infrastructure managers (IMs) so that they control all the functions at the heart of the rail network – including infrastructure investment planning, day-to-day operations and maintenance, as well as timetabling. To achieve that, the Commission proposes an institutional separation between infrastructure managers and railway undertakings. Rail undertakings, independent of infrastructure managers, will have immediate access to the internal passenger market in 2019. Faced with numerous complaints from users, the Commission considers that the infrastructure managers must have operational and financial independence from any transport operator running the trains.

To ensure that the network is developed in the interests of all players, the Commission is proposing the establishment of a Coordination committee which will allow public authorities and infrastructure users to

express their needs and ensure that the difficulties they encounter are properly addressed. The aim is to make infrastructure managers more market-oriented and guarantee that their infrastructure allocation, charging, maintenance and renewal policy meet the demand of all the users of railway infrastructure. The Commission wants, in addition, to establish a European Network of IMs to promote cross-border cooperation, with particular attention paid to operations along Rail Freight Corridors and international passenger transport routes.

Opening of the market for domestic passenger transport services by rail

Domestic rail passenger services account for more than 94% of the EU rail passenger market. Opening of the market will, according to the Commission, guarantee more competition, which will influence customer satisfaction and prices positively, and will encourage innovation. Moreover, improvements in service quality and efficiency are needed to make rail a more attractive choice for passengers and to encourage modal shift. This is the part of the Commission's document which is the most reformist and raises most debates within the rail transport community, as well as among the MEPs.

The Commission is proposing that domestic passenger railways be opened up to new entrants and services from December 2019. Companies will be able to offer domestic rail passenger services across the EU: either by offering competing commercial services (competition 'in the market') or through bidding for public service rail contracts (competition 'for the market'). The latter account for a majority (over 90%) of EU rail journeys and will become subject to mandatory tendering. Existing rules give competent authorities extensive scope to directly award public service rail contracts (PSCs) in rail transport, avoiding competitive tendering procedures (which are generally required for PSCs in other modes of public transport).

The Commission proposes a flexible definition of maximum contract volume. A minimum threshold below which contracts may be awarded directly will enable public authorities to avoid organising a tendering procedure, if the expected savings of public funds would not exceed the costs of tender.

The proposed provisions contain the obligation for competent regional/local contracting authorities to establish public transport plans setting objectives for public passenger transport policy including general supply performance patterns for public passenger transport. These plans should be drafted in line with the requirements of urban mobility action plans. To ensure maximum transparency, competent authorities will be required to provide certain operational, technical and financial data to all potential bidders for a public service contracts, enabling them to prepare a well-informed offer, thereby enhancing competition and enabling benefits for citizens to be achieved. The Commission expects that any additional administrative burden to the competent authorities related to the new bidding procedures would normally be offset by the expected savings in subsidies.

Another proposal of the Commission with regards to opening of the domestic passenger transport services concerns the non-discriminatory access to integrated ticketing systems. To preserve network effects, Member States, competent authorities and railway undertakings will be encouraged to set up integrated ticketing schemes at national level. If every operator ran a different ticketing system, this would be to the detriment of the service offer from the passengers' view-point, diverting costs away from

improvements in service towards covering commission in ticket sales and reducing the overall attractiveness of rail compared to other modes.

Finally, access to rolling stock is an important constraint for new entrants in open access operations and competitive tendering for public service contracts. To avoid this problem and facilitate access to rolling stock, the Commission is proposing to introduce an obligation for competent authorities to take the financial risk of the residual value of rolling stock and thus ensure non-discriminatory access to suitable rolling stock. This should be done by a choice of appropriate means e.g. by assuming ownership of the rolling stock, providing a bank guarantee for the purchase of new, setting up of a ROSCO (leasing company).

Interoperability and safety

Statistically rail is far safer per passenger kilometre than road travel (with 62 passenger fatalities in 2010, compared to 31,000 on EU roads) and has continued to improve in the last decade. So safety benefits would accrue through modal shift.

The Commission's proposal goes in the direction of harmonization, cutting administrative costs and removing market access barriers. It proposes transfer of competences from Member States to the European Railway Agency (ERA) for issuing vehicle authorizations for placing on the market and for safety certification for railway undertakings. While legal responsibility would lie with ERA, it would work in close cooperation with the relevant National Safety Agencies (NSAs). At the same time it would have an enhanced role in the supervision of national rules and monitoring NSAs.

The social dimension

To provide the necessary safeguards to workers after market opening, under the EU regulatory framework, Member States will have the possibility to protect workers by requiring new contractors to take them on when public service contracts are transferred.