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*Plenary sitting*

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**A8-0371/2016**

7.12.2016

**\*\*\*II**

## **RECOMMENDATION FOR SECOND READING**

on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (11199/1/2016– C8-0426/2016 – 2013/0029(COD))

Committee on Transport and Tourism

Rapporteur: David-Maria Sassoli

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council position at first reading with a view to the adoption of a directive of the European Parliament and of the Council amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure  
(11199/1/2016 – C8-0426/2016 – 2013/0029(COD))**

**(Ordinary legislative procedure: second reading)**

*The European Parliament,*

- having regard to the Council position at first reading (11199/1/2016 – C8-0426/2016),
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, the Lithuanian Parliament, the Luxembourg Chamber of Deputies, the Netherlands Senate, the Netherlands House of Representatives and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 11 July 2013<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 8 October 2013<sup>2</sup>,
  - having regard to its position at first reading<sup>3</sup> on the Commission proposal to Parliament and the Council (COM(2013)0029),
  - having regard to Article 294(7) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 76 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A8-0371/2016),
1. Approves the Council position at first reading;
  2. Notes that the act is adopted in accordance with the Council position;
  3. Instructs its President to sign the act with the President of the Council, in accordance with Article 297(1) of the Treaty on the Functioning of the European Union;
  4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the *Official Journal of the European Union*;

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<sup>1</sup> OJ C 327, 12.11.2013, p. 122.

<sup>2</sup> OJ C 356, 5.12.2013, p. 92.

<sup>3</sup> Texts adopted, P7\_TA(2014)0147.

5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## EXPLANATORY STATEMENT

### 1. The market pillar of the Fourth Railway Package

The market pillar of the Fourth Railway Package comprises three legislative proposals:

1. A proposal to amend Directive 2012/34/EU establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure;
2. A proposal to amend Regulation 1370/2007 concerning the opening of the market for domestic passenger transport services by rail;
3. A proposal to repeal Regulation 1192/69 on common rules for the normalisation of the accounts of railway undertakings.

### 2. The Commission proposal for the amendment of Directive 2012/34/EU

This legislative proposal, also known as ‘the Governance Directive’, had in particular the following objectives:

- a) The opening of the market for domestic passenger transport services by rail with the objective of intensifying competitive pressure on domestic rail markets, in order to increase the quantity and improve the quality of passenger services. Rail freight services and international passenger transport services have been opened to competition since 2007 and 2010 respectively with the adoption of the previous railway packages. The proposal has to be seen alongside the proposed amendments to Regulation 1370/2007 and in this context aims to increase the efficiency of the public financing of passenger services.
- b) Enhancing the governance of the infrastructure manager with the objective of ensuring equal access to the infrastructure. This should be achieved through the removal of conflicts of interest affecting decisions of the infrastructure manager on market access and the elimination of the potential for cross-subsidisation between infrastructure managers and railway undertakings, which exists in integrated structures. The proposal also aimed to ensure that all of the infrastructure manager’s functions will be managed in a consistent manner. Finally, the proposal aimed at strengthening coordination between infrastructure managers and rail operators to better address market needs and at enhancing cross-border cooperation between infrastructure managers.

Those changes should raise the level of competition, guarantee financial transparency and fair financing conditions. Equal market access and the increasing number of operators should ultimately generate new business activity and additional traffic. Increasing competition and specialisation of the market players should also have a positive effect on productivity and efficiency and lead to increases in investment into rail transport infrastructure.

A combination of ‘open access’ and competitive tendering of public service contracts should allow further market opening as has already been achieved in the freight and international passenger market, with evidence in the more mature freight market that it has led to a higher market share for rail.

Increased competition should enhance the attractiveness of rail and make the sector more responsive to customers' needs, allowing rail operators to compete with other modes. Further development of high-speed passenger services should also make rail more competitive increasing its market share and contributing to achieving climate change targets.

Growth of rail activity should also increase the demand for qualified rail workers and operators of rail services facilities but also the demand for rolling stock, therefore creating new jobs in rail manufacturing.

### **3. Interinstitutional negotiations**

Following the adoption of Parliament's first reading position on 26 February 2014, interinstitutional negotiations (aimed at an early second reading agreement) took place, from October 2015 to April 2016, under the Luxembourg and the Dutch Presidencies of the Council. After six rounds of trilogues, Parliament's negotiating team reached an agreement with the Council Presidency on 19 April 2016.

The text of the agreement was presented to the Committee on Transport and Tourism (TRAN) and approved on 12 July 2016. On the basis of the Committee's approval, the Chair of the TRAN Committee, in his letter to the Chair of the Committee of Permanent Representatives (COREPER I), indicated that he would recommend to the Plenary to approve the Council's position at first reading without amendments, provided that it is in conformity with the agreement reached between the two institutions. Following legal-linguistic verification, the Council adopted its position at first reading on 17 October 2016 in accordance with the agreement.

### **4. Main achievements of the European Parliament**

The role of Parliament was instrumental in reaching an overall agreement with the Council aimed at ensuring the impartiality and independence of the infrastructure managers and the opening of the rail market. In particular, Parliament achieved the following:

- safeguards have been put in place to ensure the impartiality and independence of the infrastructure manager, by reinforcing the provisions on: double mandates, essential functions, traffic management and maintenance planning, outsourcing and sharing of the functions of the infrastructure manager, financial transparency;
- Member States should put in place a national framework for the assessment of conflicts of interests. Within this framework, the regulatory bodies should take into account any personal financial, economic or professional interests which could improperly influence the impartiality of the infrastructure manager;
- special rules governing the access of high-speed passenger services to the Union rail infrastructure have been established, with a view to developing the market for high-speed passenger services and promoting its competitiveness for the benefit of passengers; those new rules, laid down in Article 11a, specify that access of high-speed passenger services is to be subject exclusively to requirements adopted by the regulatory body in accordance with that Article. As a result of Article 11a, the Rapporteur points out that Member States may not limit the access of high-speed passenger services to the Union rail infrastructure under Article 11(1);

- on social issues: a railway undertaking applying for a licence, or the persons in charge of its management, must have not been convicted of serious offences resulting from obligations arising from binding collective agreements; the Commission should also assess whether legislative measures on the certification of on-board railway staff are necessary;
- mandatory coordination mechanisms between infrastructure managers and railway undertakings have been established;
- the role of the European Network of Infrastructure Managers was strengthened, including mechanisms to ensure benchmarking of their performance;
- the powers of the regulatory bodies were reinforced and a cooperation mechanism was established as regards the coordination of the decisions of two or more regulatory bodies concerning international rail services or bi-national infrastructure;
- the market development of common information and through-ticketing systems was put forward as a priority, in order to facilitate more efficient multimodal and cross-border passenger transport; the Commission shall monitor rail market developments concerning the introduction of such systems, and present by 2022 a report to the European Parliament and the Council, to be accompanied, if appropriate, by legislative proposals.

## **5. Recommendation**

As Council's first reading position is in conformity with the agreement reached during the interinstitutional negotiations, the Rapporteur recommends endorsing it without amendments.

## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Amendment of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure
<b>References</b>	11199/1/2016 – C8-0426/2016 – 2013/0029(COD)
<b>Date of Parliament's first reading – P number</b>	26.2.2014                      T7-0147/2014
<b>Commission proposal</b>	COM(2013)0029 - C7-0025/2013
<b>Receipt of Council position at first reading announced in plenary</b>	27.10.2016
<b>Committee responsible</b> Date announced in plenary	TRAN 27.10.2016
<b>Rapporteurs</b> Date appointed	David-Maria Sassoli 13.10.2014
<b>Previous rapporteurs</b>	David-Maria Sassoli
<b>Discussed in committee</b>	10.11.2016
<b>Date adopted</b>	5.12.2016
<b>Result of final vote</b>	+:                      31 -:                      14 0:                        0
<b>Members present for the final vote</b>	Daniela Aiuto, Lucy Anderson, Marie-Christine Arnautu, Inés Ayala Sender, Georges Bach, Deirdre Clune, Michael Cramer, Andor Deli, Karima Delli, Isabella De Monte, Ismail Ertug, Jacqueline Foster, Bruno Gollnisch, Tania González Peñas, Dieter-Lebrecht Koch, Merja Kyllönen, Miltiadis Kyrkos, Bogusław Liberadzki, Peter Lundgren, Marian-Jean Marinescu, Georg Mayer, Gesine Meissner, Renaud Muselier, Jens Nilsson, Salvatore Domenico Pogliese, Tomasz Piotr Poręba, Gabriele Preuß, Christine Revault D'Allonnes Bonnefoy, Dominique Riquet, Massimiliano Salini, David-Maria Sassoli, Claudia Schmidt, Keith Taylor, Pavel Telička, István Ujhelyi, Wim van de Camp, Janusz Zemke, Roberts Ziļe
<b>Substitutes present for the final vote</b>	Daniel Dalton, Fabio De Masi, Maria Grapini, Werner Kuhn, Ramona Nicole Mănescu, Matthijs van Miltenburg
<b>Substitutes under Rule 200(2) present for the final vote</b>	Jeroen Lenaers
<b>Date tabled</b>	7.12.2016