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*Committee on Transport and Tourism*

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**2010/0253(COD)**

31.5.2011

# **AMENDMENTS 460 - 724**

**Draft report**  
**Debora Serracchiani**  
(PE456.628v01-00)

Proposal for a Directive of the European parliament and of the Council  
establishing a single European railway area (repeal. Directives 91/440/EEC,  
95/18/EC and 2001/14/EC). Recast

Proposal for a directive  
(COM(2010)0475 – C7-0268/2010 – 2010/0253(COD))

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PE467.167v01-00

**EN**

*United in diversity*

**EN**



**Amendment 460**  
**Silvia-Adriana Țicău**

**Proposal for a directive**  
**Article 15 – paragraph 1**

*Text proposed by the Commission*

(1) The Commission shall make the necessary arrangements to monitor technical and economic conditions and market developments in European rail transport.

*Amendment*

(1) The Commission shall make the necessary arrangements to monitor technical and economic conditions and market developments, ***employment development and social conditions*** in European rail transport, ***as well as its compliance with EU competition rules***.

Or. ro

*Justification*

*Monitoring developments in employment and social conditions, as well as compliance with EU competition rules is of great importance for achieving a 'single European railway area'.*

**Amendment 461**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

2. In this context, the Commission shall closely involve representatives of the Member States and of the sectors concerned in its work, including users, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

*Amendment*

2. In this context, the Commission shall closely involve representatives of the Member States, ***the European Parliament, the European Railway Agency*** and of the sectors concerned in its work, including users, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

Or. fr

### *Justification*

*This amendment seeks to involve the European Parliament and the European Railway Agency in the work carried out by the Commission.*

#### **Amendment 462** **Gilles Pargneaux**

##### **Proposal for a directive** **Article 15 – paragraph 2**

###### *Text proposed by the Commission*

2. In this context, the Commission shall closely involve representatives of the Member States and of the sectors concerned in its work, including *users*, so that they are able better to monitor the development of *the railway* sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

###### *Amendment*

2. In this context, the Commission shall closely involve representatives of the Member States, *particularly from the regulatory authorities*, and of the sectors concerned in its work, including *the social partners and organisations representing rail users*, so that they are able better to monitor the development of *this* sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

Or. fr

### *Justification*

*The Commission should involve representatives of the social partners and users in its actions to monitor the railway market. The European Railway Agency, for its part, should remain focused on ensuring an optimum level of safety.*

#### **Amendment 463** **Saïd El Khadraoui**

##### **Proposal for a directive** **Article 15 – paragraph 2**

###### *Text proposed by the Commission*

2. In this context, the Commission shall closely involve representatives of the

###### *Amendment*

2. In this context, the Commission shall closely involve representatives of the

Member States and of the sectors concerned in its work, including *users*, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

Member States, ***including representatives of the regulatory bodies***, and of the sectors concerned in its work, including ***the railways sector's social partners and customers***, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission. ***The Commission shall, if necessary, also consult the European Railway Agency.***

Or. nl

**Amendment 464**  
**Herbert Dorfmann**

**Proposal for a directive**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

(2) In this context, the Commission shall closely involve representatives of the Member States and of the sectors concerned in its work, including users, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

*Amendment*

(2) In this context, the Commission shall closely involve representatives of the Member States, ***of the regulatory bodies, of the railway undertakings concerned*** and of the sectors concerned in its work, including users, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

Or. de

**Amendment 465**  
**Silvia-Adriana Țicău**

**Proposal for a directive**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

(2) In this context, the Commission shall closely involve representatives of the Member States and of the sectors concerned in its work, including **users**, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

*Amendment*

(2) In this context, the Commission shall closely involve representatives of the Member States and of the sectors concerned in its work, including **trade unions, sectoral unions and users' representatives**, so that they are able better to monitor the development of the railway sector and the evolution of the market, to assess the effect of the measures adopted and to analyse the impact of the measures planned by the Commission.

Or. ro

*Justification*

*In view of the major role played by trade unions and sectoral unions and, especially, by the representatives of railway services users, it is important that they be consulted and support the Commission in the process of monitoring the technical and economic conditions and developments on the European railway transport market.*

**Amendment 466**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 15 – paragraph 3**

*Text proposed by the Commission*

3. The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, rail transport services covered by public service contracts, licensing and the degree of harmonisation between Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

*Amendment*

3. The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, rail transport services covered by public service contracts, licensing, **degree of market opening**, and the degree of harmonisation between Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

*Justification*

*It is crucial in this RECAST to underline the importance of completing the Internal market in the rail sector, in order to achieve this, market opening and fair competition are essential elements.*

**Amendment 467**

**Dominique Vlasto, Dominique Riquet, Michel Dantin**

**Proposal for a directive****Article 15 – paragraph 3***Text proposed by the Commission*

3. The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, rail transport services covered by public service contracts, licensing and the degree of harmonisation between Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

*Amendment*

3. The Commission shall monitor the use of the networks and the evolution of framework conditions in the rail sector, in particular infrastructure charging, capacity allocation, investments in railway infrastructure, developments as regards prices and the quality of rail transport services, rail transport services covered by public service contracts, licensing and the degree of harmonisation, ***particularly in the field of social rights***, between ***and within*** Member States. It shall ensure active cooperation between the appropriate regulatory bodies in the Member States.

Or. fr

**Amendment 468**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive****Article 15 – paragraph 4 – introductory part***Text proposed by the Commission*

4. The Commission shall report on a regular basis to the European Parliament and the Council on:

*Amendment*

4. The Commission shall report on a regular basis, ***and at least once every four years***, to the European Parliament and the

Council on:

Or. fr

*Justification*

*This amendment aims to indicate how often the Commission should report to Parliament and the Council on its work.*

**Amendment 469**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 15 – paragraph 4 – point a**

*Text proposed by the Commission*

(a) the evolution of the internal market in rail services;

*Amendment*

(a) the evolution of the internal market in rail services ***including the degree of market opening***;

Or. en

**Amendment 470**

**Ismail Ertug, Knut Fleckenstein**

**Proposal for a directive**

**Article 15 – paragraph 4 – point g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) working conditions in the sector, for each Member State.***

Or. de

*Justification*

*Incorrect consolidation. The proposed wording is based on that of Directive 2004/51/EC of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community's railways. The report should also take account of matters affecting workers, since they are the key to the establishment of an efficient, safe and effective railway system. In addition, this could and should represent a means of achieving the objectives of the Lisbon*



*Strategy.*

**Amendment 471**  
**Brian Simpson**

**Proposal for a directive**  
**Article 15 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5 a. The Commission shall monitor the development of the maintenance markets and undertake a study by 2012 to evaluate the benefits that an opening of the maintenance markets could bring. The study should analyse the impact the opening of maintenance services would have on the market for rail operators and on further facilitating access to rail-related services for railway operators.***

Or. en

*Justification*

*The potential for the maintenance markets to offer vast efficiency gains needs to be looked into. The results of the study and of monitoring the maintenance markets can inform the Commission for possible regulatory action.*

**Amendment 472**  
**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 15 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

For the purposes of the Commission's market monitoring, Member States shall supply on an annual basis the information indicated in Annex IV, as well as all other necessary data requested by the Commission.

For the purposes of the Commission's market monitoring, Member States shall supply on an annual basis the information indicated in Annex IV, as well as all other necessary data requested by the Commission, ***in particular:***

***a) the degree of market opening and fair competition in each Member State;***

Or. en

*Justification*

*It is crucial in this RECAST to underline the importance of completing the Internal market in the rail sector, in order to achieve this, market opening and fair competition are essential elements.*

**Amendment 473**  
**Herbert Dorfmann**

**Proposal for a directive**  
**Article 15 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

For the purposes of the Commission's market monitoring, Member States shall supply on an annual basis the information indicated in Annex IV, as well as all other necessary data requested by the Commission.

*Amendment*

For the purposes of the Commission's market monitoring, Member States shall supply on an annual basis the information indicated in Annex IV, as well as all other necessary data requested by the Commission.

***Listing and publication of the type and number of complaints, notifications and other objections made by railway undertakings and of the type and number of discriminatory or other prejudicial measures taken by infrastructure operators, former state railway undertakings and/or their successor undertakings.***

Or. de

**Amendment 474**  
**Debora Serracchiani**

**Proposal for a directive**  
**Article 15 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

For the purposes of the Commission's market monitoring, Member States shall supply on an annual basis the information indicated in Annex IV, as well as all other necessary data requested by the Commission.

*Amendment*

For the purposes of the Commission's market monitoring, Member States shall supply on an annual basis the following information indicated as Annex IV, as well as all other necessary data requested by the Commission:

***(a) the evolution of rail transport performance and compensation for Public Service Obligations (PSO);***

***(b) the modal share of railway undertakings in total transport performance;***

***(c) the resources and activities of regulatory bodies dedicated to their functioning as appeal bodies;***

***(d) the relevant developments as regards restructuring of the incumbent railway undertaking and adoption/implementation of national transport strategies over the previous year;***

***(e) the important training initiatives/measures in the field of railway transport taken in a Member State during the previous year;***

***(f) the employment and the social conditions of railway undertakings, infrastructure managers and of other companies active in the railway sector at the end of the previous year;***

***(g) the investments in the high-speed rail network during the previous year;***

***(h) the length of the railway network at the end of the previous year;***

***(i) the track access charges during the previous year;***

***(j) the existence of a performance scheme set up according to Article 35 of this Directive;***

***(k) the number of active licences issued by the competent national authority;***

- (l) the status of ERTMS deployment;*
- (m) the number of incidents, accidents and serious accidents as defined by Directive 2004/49/EC which occurred on the network during the previous year;*
- (n) other relevant developments.*

Or. en

**Amendment 475**  
**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**  
**Article 15 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Annex IV may be amended in the light of experience in accordance with the procedure referred to in Article 60.*      *deleted*

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would be justified on the basis of the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 476**  
**Roberts Zile**

**Proposal for a directive**  
**Article 17 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. A railway undertaking shall be entitled to apply for a licence in the Member State in which it is established, *provided that* Member *States or nationals of Member*

1. A railway undertaking shall be entitled to apply for a licence in the Member State in which it is established. *A Member State shall take a decision on an application for*

***States own in total more than 50% of this railway undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where an agreement with a third country to which the European Union is a party provides otherwise.***

***a licence by a railway undertaking established on its territory where that railway undertaking is owned by more than 50% in total by third party interests outside of the EU and where such third parties effectively control it, whether directly or indirectly through one or more intermediate undertakings.***

Or. en

#### *Justification*

*The Commission proposal aims at protecting railway operators in countries neighbouring 3rd countries from the overwhelming strength of 3rd country railway undertakings acting in an anti-competitive manner towards EU operators. Rewording (with a clear mention that this concerns 3rd party interests) of the text will give the Member States the ultimate right to oppose an application for a licence by 3rd party interests. The criteria proposed by the Commission are maintained.*

#### **Amendment 477 Gilles Pargneaux**

#### **Proposal for a directive Article 17 – paragraph 1**

##### *Text proposed by the Commission*

1. A railway undertaking shall be entitled to apply for a licence in the Member State in which it is established , ***provided that Member States or nationals of Member States own in total more than 50% of this railway undertaking and effectively control it, whether directly or indirectly through one or more intermediate undertakings, except where an agreement with a third country to which the European Union is a party provides otherwise .***

##### *Amendment*

1. A railway undertaking shall be entitled to apply for a licence in the Member State in which it is established.

Or. fr

*Justification*

*The details added by the Commission provide no additional legal explanations but make these difficult to understand.*

**Amendment 478**

**Carlo Fidanza, Antonio Cancian**

**Proposal for a directive**

**Article 17 – paragraph 1**

*Text proposed by the Commission*

1. A railway undertaking shall be entitled to apply for a licence in **the** Member State in which it is established, provided **that Member States or nationals of Member States own in total more than 50% of this railway undertaking and effectively control it, whether directly or indirectly through one or more intermediate** undertakings, except where an agreement with a third country to which the European Union is a party provides otherwise.

*Amendment*

1. A railway undertaking **originating from a third country** shall be entitled to apply for a licence in **a** Member State in which it is established, **where similar rights are provided to European** railway undertakings **in the concerned third country**, except where an agreement with a third country to which the European Union is a party provides otherwise .

Or. en

*Justification*

*The rewording introduce reciprocity criteria*

**Amendment 479**

**Carlo Fidanza, Antonio Cancian**

**Proposal for a directive**

**Article 17 – paragraph 5**

*Text proposed by the Commission*

5. The Commission **may** adopt implementing measures setting out the details of the procedure to be followed for the application of this Article including the use of a common template for the licence.

*Amendment*

5. The Commission **shall** adopt implementing measures setting out the details of the procedure to be followed for the application of this Article including the use of a common template for the licence.

Those measures, designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3).

Those measures, designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3).

Or. en

*Justification*

*Procedures and criteria to be followed by the national authorities are very important in order to ensure an homogeneous framework. Therefore, it would be better to strengthen the timing of their adoption.*

**Amendment 480**  
**Sabine Wils**

**Proposal for a directive**  
**Article 19 – paragraph 1 – point d**

*Text proposed by the Commission*

(d) have not been convicted of ***serious or repeated*** failure to fulfil social or labour law obligations, including obligations under occupational safety and health legislation, and customs law obligations in the case of a company seeking to operate cross-border freight transport subject to customs procedures.

*Amendment*

(d) have not been convicted of ***any*** failure to fulfil social or labour law obligations, including obligations under ***safety provisions***, occupational safety and health legislation, and customs law obligations in the case of a company seeking to operate cross-border freight transport subject to customs procedures.

Or. en

*Justification*

*Respecting safety provisions is to be considered as essential.*

**Amendment 481**  
**Sabine Wils**

**Proposal for a directive**  
**Article 20 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***Annex V may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

***deleted***

Or. en

*Justification*

*Essential element not falling under delegated acts procedure.*

## **Amendment 482**

**Ismail Ertug, Knut Fleckenstein**

### **Proposal for a directive**

#### **Article 21 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The requirements relating to professional competence shall be met when an applicant railway undertaking can demonstrate that it has or will have a management organisation which possesses the knowledge or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence.

The requirements relating to professional competence shall be met when an applicant railway undertaking can demonstrate that it has or will have a management organisation which possesses the knowledge or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence. ***With that aim in view, it shall also be required to submit proof that its employees have the requisite training, in the form of test certificates issued by a public body, including certificates of fitness and all certificates of competence.***

***The undertaking shall also demonstrate that it has been issued with a safety certificate pursuant to Article 10 of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on rail safety in the Community<sup>1</sup>.***

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<sup>1</sup>OJ L 220, 21.6.2004, p. 16.



*Justification*

*This amendment seeks to deprive the operating manager of the power to decide whether training has been successfully completed. It also seeks to ensure that employees have passed all tests concerning fitness for the job (health, psychological stress) and have all the relevant skills and qualifications (test, train driver's licence, track knowledge, etc.). In addition, a rail transport undertaking should meet all the relevant requirements before entering the market.*

**Amendment 483**  
**Sabine Wils**

**Proposal for a directive**  
**Article 21 – paragraph 1**

*Text proposed by the Commission*

The requirements relating to professional competence shall be met when an applicant railway undertaking can demonstrate that it has or will have a management organisation which possesses the knowledge or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence.

*Amendment*

The requirements relating to professional competence shall be met when an applicant railway undertaking can demonstrate that it has or will have a management organisation which possesses the knowledge or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence. ***The applicant shall also demonstrate to hold a safety certificate according to Article 10 of directive 2004/49 when introducing his request.***

*Justification*

*Holding a safety certificate is a prerequisite.*

**Amendment 484**  
**Roberts Zile**

**Proposal for a directive**  
**Article 22 – paragraph 1**

*Text proposed by the Commission*

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council<sup>16</sup>, a railway undertaking shall be adequately insured for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties.

*Amendment*

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council<sup>16</sup>, a railway undertaking shall be adequately insured ***or have guarantees under market conditions*** for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties.

Or. en

*Justification*

*Railway undertakings shall have freedom to apply various proportionate options for civil liability, as there are different levels of risks in different railway networks. In many Member States options like adequacy of own capital or bank guarantees are successfully used for civil liability coverage.*

**Amendment 485**  
**Ismail Ertug**

**Proposal for a directive**  
**Article 22 – paragraph 1**

*Text proposed by the Commission*

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council, a railway undertaking shall be adequately insured for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties.

*Amendment*

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council, a railway undertaking shall be adequately insured for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties, ***with a maximum coverage of EUR 100 million per year and per accident. Where external contractors are involved, the contractor shall provide proof that the level of the sum insured guarantees this coverage and that all social security contributions prescribed by***

*national law have been paid.*

Or. de

*Justification*

*To make it clear that external employment companies must also have the necessary insurance cover.*

**Amendment 486**

**Brian Simpson**

**Proposal for a directive**

**Article 22 – paragraph 1**

*Text proposed by the Commission*

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council<sup>16</sup>, a railway undertaking shall be adequately insured for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties.

*Amendment*

Without prejudice to Chapter III of Regulation (EC) No 1371/2007 of the European Parliament and of the Council<sup>16</sup>, a railway undertaking shall be adequately insured for cover, ***or have equivalent guarantees and arrangements where approved by the regulator***, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of freight, mail and third parties.

Or. en

*Justification*

*Special consideration should be given to heritage rail operations using the national rail network, subject to approval by the national regulator.*

**Amendment 487**

**Silvia-Adriana Țicău**

**Proposal for a directive**

**Article 24 – paragraph 3**

*Text proposed by the Commission*

(3) Notwithstanding paragraph 1, where a licence is suspended or revoked on grounds of non compliance with the requirement for financial fitness, the licensing authority may grant a temporary licence pending the re-organisation of the railway undertaking, provided that safety is not jeopardised. A temporary licence shall not, however, be valid for more than six months after its date of issue.

*Amendment*

(3) Notwithstanding paragraph 1, where a licence is suspended or revoked on grounds of non compliance with the requirement for financial fitness, the licensing authority may grant a temporary licence pending the re-organisation of the railway undertaking, provided that safety is not jeopardised **and that, for the duration of the temporary licence, the undertaking has paid in full any outstanding taxes and social security contributions arising from its activities.** A temporary licence shall not, however, be valid for more than six months after its date of issue.

Or. ro

*Justification*

*It is important for temporary licences to be granted pending the reorganisation of the railway undertaking, on condition that safety is not jeopardised and that, for the duration of the temporary licence, the undertaking has paid in full any outstanding taxes and social security contributions arising from its activities.*

**Amendment 488**

**Ismail Ertug**

**Proposal for a directive**

**Article 24 a (new)**

*Text proposed by the Commission*

*Amendment*

***1. In addition to the requirements of this Directive, a railway undertaking shall also comply with national law and regulatory provisions which are compatible with Community law and are applied in a non-discriminatory manner, in particular:***

***(a) specific technical and operational requirements for rail services;***

*(b) safety requirements applying to staff, rolling stock and the internal organisation of the undertaking;*

*(c) provisions on health, safety, social conditions and the rights of workers and consumers;*

*(d) requirements applying to all undertakings in the relevant railway sector designed to offer benefits or protection to consumers.*

*2. 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 considers that the provisions of this Directive have not been fulfilled, it shall deliver an opinion on the correct interpretation of the Directive without prejudice to Article 258 of the Treaty.*

Or. de

#### *Justification*

*The original wording is retained. The intention of minimising national rules in the interest of a common Europe is to be welcomed in principle. However, this can only happen if binding, generally applicable and harmonised standards (such as TSIs) exist across Europe. Deleting the article would result in a safety deficit. The former Article 226 corresponds to Article 258 of the Treaty on European Union.*

#### **Amendment 489** **Ismail Ertug**

#### **Proposal for a directive** **Article 24 b (new)**

*Text proposed by the Commission*

*Amendment*

***Railway undertakings shall respect the agreements applicable to international***

***rail transport in force in the Member States in which they operate. They also shall observe the relevant customs and tax provisions.***

Or. de

*Justification*

*The original wording is retained. The intention of minimising national rules in the interest of a common Europe is to be welcomed in principle. However, this can only happen if binding, generally applicable and harmonised standards (such as TSIs) exist across Europe. Deleting the article would result in a safety deficit.*

**Amendment 490**

**Dominique Vlasto, Dominique Riquet, Michel Dantin**

**Proposal for a directive**

**Article 27 – paragraph 1**

*Text proposed by the Commission*

1. The infrastructure manager shall, after consultation with the interested parties, including the regulatory body referred to in Article 55, develop and publish a network statement obtainable against payment of a fee which shall not exceed the cost of publication of that statement. The network statement shall be published in at least **two official** languages **of the Union**. The content of the network statement shall be made available free of charge in electronic format through the web portal of the European Railway Agency.

*Amendment*

1. The infrastructure manager shall, after consultation with the interested parties, including the regulatory body referred to in Article 55, develop and publish a network statement obtainable against payment of a fee which shall not exceed the cost of publication of that statement. The network statement shall be published in at least **the Commission's three working** languages. The content of the network statement shall be made available free of charge in electronic format through the web portal of the European Railway Agency.

Or. fr

**Amendment 491**

**Peter van Dalen**

**Proposal for a directive**

**Article 27 – paragraph 1**

*Text proposed by the Commission*

1. The infrastructure manager shall, after consultation with the interested parties , including the regulatory body referred to in Article 55, develop and publish a network statement obtainable against payment of a fee which shall not exceed the cost of publication of that statement. The network statement shall be published in at least two official languages of the Union. The content of the network statement shall be made available free of charge in electronic format **through** the web portal **of the European Railway Agency**.

*Amendment*

1. The infrastructure manager shall, after consultation with the interested parties , including the regulatory body referred to in Article 55, develop and publish a network statement obtainable against payment of a fee which shall not exceed the cost of publication of that statement. The network statement shall be published in at least two official languages of the Union. The content of the network statement shall be made available free of charge in electronic format **on the joint web portal to be set up by infrastructure managers within the framework of the cooperation referred to in Articles 37 and 40**.

Or. nl

**Amendment 492**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**

**Article 27 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

***Annex VI may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

*Amendment*

***deleted***

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 493**  
**Sabine Wils**

**Proposal for a directive**  
**Article 27 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Annex VI may be amended in the light of experience in accordance with the procedure referred to in Article 60.*      *deleted*

Or. en

*Justification*

*Essential element not falling under the delegated acts procedure.*

**Amendment 494**  
**Roberts Zile**

**Proposal for a directive**  
**Article 29 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that the charging framework and charging rules are published in the network statement.

Member States shall ensure that the charging framework and charging rules are published in the network statement.

***In cases resulting from the conditions of competition with third countries, charging principles and charging rules are not published in the network statement but are published separately no later than 3 months before the date of entry into force of the new timetable.***

Or. en

*Justification*

*According to this directive, charging principles and rules will be published much earlier than current practice is. That will create possibility for competing infrastructure managers of third countries to get to know a level of charges in good time to adjust levels of charges they*



*propose (for example, for carriages via Belarus or Ukraine) accordingly (to lower). Therefore EU infrastructure managers and railway undertakings are placed in disadvantageous situation.*

**Amendment 495**  
**Inés Ayala Sender**

**Proposal for a directive**  
**Article 29 – paragraph 1 – subparagraph 4**

*Text proposed by the Commission*

The infrastructure manager shall determine and collect the charge for the use of infrastructure.

*Amendment*

The infrastructure manager shall determine and collect the charge for the use of infrastructure ***unless the national parliament is competent to set them accordingly to their constitutional law.***

Or. en

*Justification*

*In some Member States, it is the national Parliament accordingly to their constitutional law, the competent body to determine the charges for the different modes of transport. This amendment seeks to introduce this possibility as it is the case for Directive 2009/12/EC of the European Parliament and of the Council of 11 March 2009 on airport charges.*

**Amendment 496**  
**Sabine Wils**

**Proposal for a directive**  
**Article 29 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

The Member States shall ensure that infrastructure managers cooperate to enable the application of efficient charging schemes for the operation of train services which cross more than one infrastructure network. ***Infrastructure managers shall, in particular, aim to guarantee the optimal competitiveness of international rail services and ensure the efficient use***

*Amendment*

The Member States shall ensure that infrastructure managers cooperate to enable the application of efficient charging schemes for the operation of train services which cross more than one infrastructure network.

*of the railway networks.*

Or. en

*Justification*

*Redundant statement: these objectives are already recalled through the whole directive in particular in article 26 concerning the optimum effective use of the available infrastructure capacity that includes international services too.*

**Amendment 497**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive  
Article 30 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall ensure that paragraph 1 is implemented through a contractual agreement between the competent authority and the infrastructure manager covering a period of not less than five years which provides for State funding.

*Amendment*

2. Member States shall ensure that paragraph 1 is implemented through a contractual agreement between the competent authority and the infrastructure manager covering a period of not less than five years which provides for State funding ***and contains indicative forecasts of the level of charges.***

Or. fr

*Justification*

*This amendment aims to include indications of charges in the multiannual contracts in order to give rail companies some medium-term visibility.*

**Amendment 498**

**Sabine Wils**

**Proposal for a directive  
Article 30 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2 a. If a contractual agreement between***

*the Member state and the Infrastructure Manager already exists on the date of entry of this Directive, this agreement is exempted from the application of paragraphs 3, 4 and 5 and of annexe VII until its expiry, or at least for a duration of 5 years following the date of transposition of this text from the concerned Member State.*

Or. en

*Justification*

*Clarification needed to avoid that revised rules shall not apply to the existing contractual agreements at the date of entry of the directive according to article 68; further requirements should only have to be implemented in a follow-up agreement taking into account the five years duration term following the effective date of transposition in the Member State legislative framework according to article 66.*

**Amendment 499**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**

**Article 30 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Basic principles and parameters of such agreements are set out in Annex VII which may be amended in the light of experience in accordance with the procedure referred to in Article 60.*

*deleted*

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 500**  
**Sabine Wils**

**Proposal for a directive**  
**Article 30 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

Basic principles and parameters of such agreements are set out in Annex VII **which may be amended in the light of experience in accordance with the procedure referred to in Article 60.**

*Amendment*

Basic principles and parameters of such agreements are set out in Annex VII.

Or. en

*Justification*

*Essential element not falling under the delegated acts procedure.*

**Amendment 501**  
**Sabine Wils**

**Proposal for a directive**  
**Article 30 – paragraph 3 – subparagraph 5**

*Text proposed by the Commission*

***The regulatory body referred to in Article 55 shall assess the appropriateness of the envisaged medium to long-term income of the infrastructure manager for meeting the agreed performance targets and shall make relevant recommendations, at least one month before the agreement is signed.***

*Amendment*

***deleted***

Or. en

*Justification*

*The regulatory body is an arbiter: the assessment of consistency on the agreed performance targets as stipulated in a contractual agreement is a control competence of the Member State political body which undersigned it.*

**Amendment 502**  
**Corien Wortmann-Kool**

**Proposal for a directive**  
**Article 30 – paragraph 3 – subparagraph 5**

*Text proposed by the Commission*

*Amendment*

*The regulatory body referred to in Article 55 shall assess the appropriateness of the envisaged medium to long-term income of the infrastructure manager for meeting the agreed performance targets and shall make relevant recommendations, at least one month before the agreement is signed.* **deleted**

Or. en

**Amendment 503**  
**Sabine Wils**

**Proposal for a directive**  
**Article 30 – paragraph 3 – subparagraph 6**

*Text proposed by the Commission*

*Amendment*

*The competent authority shall give justifications to the regulatory body if it intends to deviate from these recommendations.* **deleted**

Or. en

*Justification*

*The competent authority shall respond to the competent Member State political body in charge to grant the consistency of the contractual agreement.*

**Amendment 504**  
**Corien Wortmann-Kool**

**Proposal for a directive**  
**Article 30 – paragraph 3 – subparagraph 6**

*Text proposed by the Commission*

*Amendment*

***The competent authority shall give justifications to the regulatory body if it intends to deviate from these recommendations.***

***deleted***

Or. en

**Amendment 505**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 30 – paragraph 3 – subparagraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***A contractual agreement may be revised only after approval by the regulatory authority. This must check the need for and urgency of a revision of the contract and the financial architecture of the new contract. Member States must consult interested parties at least one month before the revision is signed and publish the document within one month of concluding it.***

Or. fr

*Justification*

*This amendment seeks to prevent any abusive attempt to revise multi-annual contractual agreements before they expire.*

**Amendment 506**

**Sabine Wils**

**Proposal for a directive**

**Article 31 – paragraph 1**

*Text proposed by the Commission*

1. Charges for the use of railway infrastructure and of service facilities shall be paid to the infrastructure manager and to the service facility operator respectively ***and used to fund their business.***

*Amendment*

1. Charges for the use of railway infrastructure and of ***railway*** service facilities shall be paid to the infrastructure manager and to the ***railway*** service facility operator respectively.

Or. en

*Justification*

*Redundant statement: a legislative text should not give suggestions on motivations why a charge is required and paid for.*

**Amendment 507**

**Michael Cramer, Isabelle Durant, Georges Bach**

**Proposal for a directive**

**Article 31 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1 a. Member states should make sure that taxes and charges that apply to national infrastructure access and essential facilities should be levied only in a way that is equitable with similar taxes and charges in other transport modes. The European Commission should monitor the application of this principle in order to avoid market distortions.***

Or. en

*Justification*

*There have been recent cases where changes in occupational tax law in one country have lead to the application of a (passenger) wagon tax for all railway companies operating on their territory. This has uniformly increased prices for cross-border passenger traffic.*

**Amendment 508**  
**Roberts Zile**

**Proposal for a directive**  
**Article 31 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1 .

*Amendment*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1 .

***In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness in particular of international rail services. The charging system shall respect the productivity increases achieved by railway undertakings.***

***The level of charges must not, however, exclude the use of infrastructure by market segments which can pay at least the cost that is directly incurred as a result of operating the railway service, plus a rate of return which the market can bear.***

***Before approving the levy of such mark-ups, Member States shall evaluate their relevance for specific market segments, considering at least the pairs listed in Annex VIII, point 3 and retaining the relevant ones. The list of market segments defined by infrastructure managers shall contain at least the three following ones: freight services, passenger services within the framework of a public service contract and other passenger services. Infrastructure managers may further distinguish market segments.***

***Market segments in which railway***



*undertakings are not currently operating but may provide services during the period of validity of the charging system shall also be defined. The infrastructure manager shall not include a mark-up in the charging system for these market segments.*

*The list of market segments shall be published in the network statement and shall be reviewed at least every five years.*

Or. en

#### *Justification*

*Infrastructure charge set on the level of direct costs can not cover all the expenses of infrastructure manager. Therefore, charging level which market can bear for each market segment shall not be regarded as the exception but shall be one of the basic principle of the charging. Therefore text on mark-ups shall be moved from Article 32.1.(exceptions) to Article 31.3 (basic charging principles). It should be up to Member states to evaluate relevance of mark-ups to specific market segments.*

#### **Amendment 509**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

#### **Proposal for a directive**

#### **Article 31 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1 .

##### *Amendment*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service , according to Annex VIII, point 1 . ***Except in the case provided for in paragraph 5, the infrastructure manager may not apply a level of charges exceeding the overall infrastructure cost, by market segment.***

Or. fr

### *Justification*

*The level of charges must not exceed the cost of recovering the overall infrastructure cost, by market segment. This is essential to prevent untransparent cross-financing mechanisms being put in place and to preserve the economic viability of certain kinds of traffic.*

#### **Amendment 510**

**Juozas Imbrasas**

#### **Proposal for a directive**

#### **Article 31 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1.

##### *Amendment*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1. ***Member States may not apply this requirement to transportation of freight to or from third countries on a network whose track gauge is different from the main rail network within the Union.***

Or. en

#### **Amendment 511**

**Zigmantas Balčytis**

#### **Proposal for a directive**

#### **Article 31 – paragraph 3 – subparagraph 1**

##### *Text proposed by the Commission*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1.

##### *Amendment*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the minimum access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1.

***For transportation of freight from and to third countries on a network whose track***

*gauge is different from the main rail network within the Union, infrastructure managers may set higher charges in order to obtain full costs recovery of the costs incurred.*

Or. en

*Justification*

*Rail freight traffic coming through the Baltic States predominantly originates outside the EU. The Commission's proposal significantly limits the possibility of infrastructure managers to recover full cost and invest in the development of the rail network. EU taxpayers would subsidise infrastructure that is predominately used by freight traffic originating in third countries. The third parties would come up mostly benefiting from this kind of model proposed in the Commission's proposal.*

**Amendment 512**  
**Sabine Wils**

**Proposal for a directive**  
**Article 31 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the **minimum** access package shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1.

*Amendment*

Without prejudice to paragraphs 4 or 5 of this Article or to Article 32, the charges for the access **operating** package, **set in Annexe III and track access to the concerned railway facilities** shall be set at the cost that is directly incurred as a result of operating the train service, according to Annex VIII, point 1. **With the exclusion of the modifications regarding the provisions on noise and environmental constraints, the infrastructure charges shall not exceed the complete cost of the infrastructure for each rail market segment.**

Or. en

*Justification*

*Clarification needed concerning the access to the Annexe III railway facilities and*

*safeguarding the possible modifications according to provisions set out in paragraph 5.*

**Amendment 513**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 31 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Annex VIII, point 1 may be amended in the light of experience in accordance with the procedure referred to in Article 60.*      *deleted*

Or. fr

*Justification*

*Abuse by the Commission of its powers to intervene at national rail level.*

**Amendment 514**  
**Sabine Wils**

**Proposal for a directive**  
**Article 31 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Annex VIII, point 1 may be amended in the light of experience in accordance with the procedure referred to in Article 60.*      *deleted*

Or. en

*Justification*

*Essential element not falling under the delegated acts procedure.*

**Amendment 515**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

When charging for the cost of noise effects **is allowed by** Union legislation for **road freight** transport, the infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

*Amendment*

When **a Member State applies** charging for **other modes of** transport for the cost of noise effects, **in accordance with** Union legislation, the infrastructure charges **in that Member State** shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

Or. fr

*Justification*

*Systematic application of the provisions of Article 31(5), at the very moment when there is the option of applying the measures to internalise external costs provided for in the Eurovignette directive, would create unfair competition between the different modes of transport, in particular between rail and road.*

**Amendment 516**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

**When charging for the cost of noise effects is allowed by Union legislation for road freight transport, the infrastructure** charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

*Amendment*

**Infrastructure** charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

***These modifications shall be revenue neutral as long as the member state of the infrastructure in question does not apply noise charging for the road sector.***

Or. en

*Justification*

*The introduction of noise differentiated charges should occur for all modes of transport in order to establish a level playing field.*

**Amendment 517**

**Hubert Pirker**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

When charging for the cost of noise effects is allowed by **Union** legislation for road freight transport, the infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

*Amendment*

When charging for the cost of noise effects is allowed by **national** legislation for road freight transport **in a Member State**, the infrastructure charges **in the Member State concerned** shall be modified **so as** to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

Or. de

*Justification*

*This wording creates equal conditions for both modes of transport.*

**Amendment 518**

**Sabine Wils**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

When charging for the cost of noise effects is allowed by Union legislation for road **freight** transport, the infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

*Amendment*

When charging for the cost of noise effects is allowed **in a mandatory way** by Union legislation for road transport, the infrastructure charges shall be modified **accordingly** to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2 **in order to incentivise retro-fitting**

*rolling stock in favour of less noisy equipment.*

Or. en

*Justification*

*Charging the cost of noise regards both road and rail sector: in the rail sector adequate and effective investments have to be put in place.*

**Amendment 519**

**Artur Zasada, Bogdan Kazimierz Marcinkiewicz**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

5. When charging for the cost of noise effects is allowed by Union legislation for road freight transport, the infrastructure charges **shall** be modified to take account of the cost of noise effects caused by the operation of the train **in accordance with Annex VIII, point 2**.

*Amendment*

5. When charging for the cost of noise effects is allowed by Union legislation for road freight transport, the infrastructure charges **may** be modified to take account of the cost of noise effects caused by the operation of the train.

Or. pl

*Justification*

*The reference to compensation for the investment in fitting a low-noise system in wagons is inadequate in view of the costs incurred. Directly funding the fitting of rolling stock with suitable components (composite brake blocks) can be a more effective way of reducing noise than modulating the payments charged by managers. At the same time, adopting the principle of lower infrastructure access charges for rolling stock emitting lower noise levels could result in the charges being increased for operators not using such rolling stock.*

**Amendment 520**

**Peter van Dalen**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***When charging for the cost of noise effects is allowed by Union legislation for road freight transport***, the infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

The infrastructure charges shall be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

Or. nl

**Amendment 521**  
**Georges Bach**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

When charging for the cost of noise effects ***is allowed by*** Union legislation for road freight transport, the infrastructure charges ***shall*** be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

When ***a Member State, in accordance with European*** Union legislation, ***applies*** charging for the cost of noise effects for road freight transport, the infrastructure charges ***of that Member State may*** be modified to take account of the cost of noise effects caused by the operation of the train in accordance with Annex VIII, point 2.

Or. fr

*Justification*

*In order not to put rail transport at a disadvantage, the introduction of measures to internalise external costs for rail transport must take place in parallel with and under similar conditions to those for the other modes of transport, in particular road transport.*

**Amendment 522**  
**Georges Bach**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 1 a (new)**

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*Text proposed by the Commission*

*Amendment*

***Such modification of infrastructure charges shall allow for compensation for investments in retrofitting rail vehicles with the most economically viable low-noise braking technology available.***

Or. fr

*Justification*

*The best way of reducing noise is to install low-noise braking systems. Introducing a system of incentives should encourage adaptation and modernisation of rolling stock.*

**Amendment 523**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***Annex VIII, point 2 may be amended in the light of experience, in accordance with the procedure referred to in Article 60, in particular to specify the elements of differentiated infrastructure charges.***

***deleted***

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 524**

**Sabine Wils**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***Annex VIII, point 2 may be amended in the light of experience, in accordance with the procedure referred to in Article 60, in particular to specify the elements of differentiated infrastructure charges.***

***deleted***

Or. en

*Justification*

*Essential element not falling under the delegated acts procedure.*

**Amendment 525**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 31 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

Annex VIII, point 2 may be amended in the light of experience, in accordance with the procedure referred to in Article 60, in particular to specify the elements of differentiated infrastructure charges.

Annex VIII, point 2 may be amended in the light of experience, in accordance with the procedure referred to in Article 60, in particular to specify the elements of differentiated infrastructure charges, ***provided that this does not lead to a distortion of competition to the detriment of rail transport.***

Or. fr

*Justification*

*The provisions aimed at integrating externalities related to noise should not be detrimental to the competitiveness of rail transport compared with other modes of transport.*

**Amendment 526**

**Herbert Dorfmann**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 3**

*Text proposed by the Commission*

The infrastructure charges may be modified to take account of the cost of other environmental effects caused by the operation of the train not referred to in Annex VIII, point 2. Any such modification, which may ensure the internalisation of external costs of air pollutants emitted as a result of operating the train service, shall be differentiated according to the magnitude of the effect caused.

*Amendment*

The infrastructure charges may be modified to take account of the cost of other environmental effects caused by the operation of the train not referred to in Annex VIII, point 2. Any such modification, which may ensure the internalisation of external costs of air pollutants **and noise pollution** emitted as a result of operating the train service, shall be differentiated according to the magnitude of the effect caused.

Or. de

**Amendment 527**  
**Peter van Dalen**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 4**

*Text proposed by the Commission*

***Charging of other environmental costs which results in an increase in the overall revenue accruing to the infrastructure manager shall however be allowed only if such charging is allowed by Union legislation for road freight transport. If the charging of these environmental costs for road freight transport is not allowed by Union legislation, such modification shall not result in any overall change in revenue to the infrastructure manager.***

*Amendment*

***deleted***

Or. nl

**Amendment 528**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 4**

*Text proposed by the Commission*

Charging of other environmental costs ***which results in an increase in the overall revenue accruing to the infrastructure manager shall however be allowed only if such charging is allowed by Union legislation for road freight transport. If the charging of these environmental costs for road freight transport is not allowed by Union legislation, such modification shall not result in any overall change in revenue to the infrastructure manager.***

*Amendment*

Charging of other environmental costs ***should be*** revenue ***neutral for the infrastructure manager as long as similar charging is not introduced to the road sector in that particular Member State.***

Or. en

*Justification*

*The internalisation of external costs is a key concern of EU transport policy. Legislation needs to include all sectors; at the same time, the rail sector should be allowed to make first steps - however without creating a competitive disadvantage.*

**Amendment 529**  
**Dominique Riquet, Michel Dantin**

**Proposal for a directive**  
**Article 31 – paragraph 5 – subparagraph 5**

*Text proposed by the Commission*

If charging for environmental costs generates additional revenue, it shall be for Member States to decide how the revenue is to be used. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a regular basis.

*Amendment*

If charging for environmental costs generates additional revenue, it shall be for Member States to decide how the revenue is to be used ***for the benefit of transport systems***. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a regular basis.

Or. fr

## *Justification*

*This amendment seeks to establish a principle that the additional revenue should be earmarked for transport systems.*

### **Amendment 530** **Dominique Vlasto**

#### **Proposal for a directive** **Article 31 – paragraph 5 – subparagraph 5**

##### *Text proposed by the Commission*

If charging for environmental costs generates additional revenue, it shall be for Member States to decide how the revenue is to be used. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a regular basis.

##### *Amendment*

If charging for environmental costs generates additional revenue, it shall be for Member States to decide how the revenue is to be used ***to support the development of the rail sector***. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a regular basis.

Or. fr

### **Amendment 531** **Izaskun Bilbao Barandica**

#### **Proposal for a directive** **Article 31 – paragraph 5 – subparagraph 5**

##### *Text proposed by the Commission*

If charging for environmental costs generates additional revenue, it shall be ***for Member States to decide how the revenue is to be used***. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a

##### *Amendment*

If charging for environmental costs generates additional revenue, it shall be ***set aside by the States for improvements to rail infrastructure***. The relevant authorities shall keep the necessary information to ensure that the origin of the charging of environmental costs and its use can be traced. Member States shall provide the Commission with this information on a

regular basis.

regular basis.

Or. es

*Justification*

*Given that the lack of investment by Member States in the rail network is a major problem, it makes sense for income generated to be reinvested in the improvement of rail infrastructure.*

**Amendment 532**

**Michael Cramer, Isabelle Durant**

**Proposal for a directive**

**Article 31 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5a. In order to encourage noise reduction at the source, EU rules for co-financing should be amended so as to allow the co-financing of retro-fitting rolling stock and rules on state aid should be adapted accordingly.***

Or. en

*Justification*

*There are figures suggesting that substantial savings can be made by investing in the most up-to-date noise abatement technologies at the source compared to noise protection measures. Costs for the 'source technology' is ca. 3 to 4 times as effective compared to protection measures.*

**Amendment 533**

**Sabine Wils**

**Proposal for a directive**

**Article 31 – paragraph 7**

*Text proposed by the Commission*

*Amendment*

***7. The supply of services referred to in Annex III, point 2, shall not be covered by***

***deleted***

*this Article. In any event, the charge imposed for such services shall not exceed the cost of providing it, plus a reasonable profit .*

Or. en

*Justification*

*No distinction is foreseen in providing access and use, when required, of service facilities listed in Annexe III: each railway service provider including the infrastructure manager shall be entitled to receive the correspondent charge for the service provided.*

**Amendment 534**  
**Sabine Wils**

**Proposal for a directive**  
**Article 31 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

**8. Where services listed in Annex III, points 3 and 4, as additional and ancillary services are offered by only one supplier the charge imposed for such a service shall not exceed the cost of providing it, plus a reasonable profit .** *deleted*

Or. en

*Justification*

*No distinction is foreseen in providing access and use, when required, of service facilities listed in Annexe III: each railway service provider including the infrastructure manager shall be entitled to receive the correspondent charge for the service provided.*

**Amendment 535**  
**Roberts Zile**

**Proposal for a directive**  
**Article 32 – paragraph 1**

***1. In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings.***

***deleted***

***The level of charges must not, however, exclude the use of infrastructure by market segments which can pay at least the cost that is directly incurred as a result of operating the railway service, plus a rate of return which the market can bear.***

***These market segments shall be established in accordance with the criteria laid down in Annex VIII, point 3 subject to the prior approval of the regulatory body. For market segments for which there is no traffic, mark-ups shall not be included in the charging system.***

***Annex VIII, point 3 may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

Or. en

*Justification*

*Infrastructure charge set on the level of direct costs can not cover all the expenses of infrastructure manager. Therefore, charging level which market can bear for each market segment shall not be regarded as the exception but shall be one of the basic principle of the charging. Therefore text on mark-ups shall be moved from Article 32.1.(exemptions) to Article 31.3 (basic charging principles).*

**Amendment 536**

**Ramon Tremosa i Balcells**



**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if **the** market can bear this, levy **mark-ups** on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness **in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings.**

*Amendment*

In order to obtain full recovery of the costs incurred by the infrastructure manager, a Member State may **authorise that the infrastructure manager may, on any given market segment, and if that market segment** can bear this, levy **a mark-up** on the basis of efficient transparent and non-discriminatory principles, while guaranteeing optimal competitiveness of the railway **sector**.

Or. en

**Amendment 537**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal competitiveness in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings.

*Amendment*

In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market **segment** can bear this, **authorise the infrastructure manager to** levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimum competitiveness in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings.

Or. fr

*Justification*

*This amendment seeks to clarify the roles of the different actors and to ensure that this*

*procedure is applied by market segment.*

**Amendment 538**  
**Sabine Wils**

**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the ***market can bear this***, levy ***mark-ups*** on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal ***competitiveness in particular of international rail freight***. The charging system shall respect the productivity increases achieved by railway undertakings.

*Amendment*

In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may ***authorise that the infrastructure manager may, on any given railway market segment, and*** if the ***concerned conditions are bearable***, levy ***a mark-up*** on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimal ***effectiveness of the railway sector***. The charging system shall respect the productivity increases achieved by railway undertakings.

Or. en

*Justification*

*In the EU Member States different models of charging rail infrastructure use are applied: under authorization of the Member State the infrastructure manager could apply a mark-up in order to obtain effectiveness and optimization of the rail network as stated in article 26.*

**Amendment 539**  
**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

These market segments shall be established in accordance with ***the criteria laid down*** in Annex VIII, point 3 subject to the prior approval of the regulatory body. For

*Amendment*

These market segments shall be established in accordance with in Annex VIII, point 3 ***after considering the pairs listed there and retaining the relevant ones*** subject to the

market segments for which there is no traffic, mark-ups shall not be included in the charging system.

prior approval of the regulatory body. For market segments for which there is no traffic, mark-ups shall not be included in the charging system.

Or. en

**Amendment 540**  
**Sabine Wils**

**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 3**

*Text proposed by the Commission*

These market segments shall be established in accordance with the *criteria* laid down in Annex VIII, point 3 *subject to the prior approval of the regulatory body*. For market segments for which there is no traffic, *mark-ups shall not* be included in the charging system.

*Amendment*

These *railway* market segments *and the corresponding mark-ups proposed* shall be established in accordance with the *procedure* laid down in Annex VIII, point 3. For market segments for which there is no traffic, *mark-ups shall not* be included in the charging system *initially*.

Or. en

*Justification*

*In order to safeguard railway segments where at an initial stage there is no traffic, the mark up must be zero, while raising it, if traffic develops and if the segment can bear it.*

**Amendment 541**  
**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 4**

*Text proposed by the Commission*

*Annex VIII, point 3 may be amended in the light of experience in accordance with the procedure referred to in Article 60.*

*Amendment*

*deleted*

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 542**  
**Sabine Wils**

**Proposal for a directive**  
**Article 32 – paragraph 1 – subparagraph 4**

*Text proposed by the Commission*

*Amendment*

*Annex VIII, point 3 may be amended in the light of experience in accordance with the procedure referred to in Article 60.*

*deleted*

Or. en

*Justification*

*Essential element not falling under the delegated acts procedure.*

**Amendment 543**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 32 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

Trains equipped with the European Train Control System (ETCS) running on lines equipped with national command control and signalling systems shall enjoy a temporary reduction of the infrastructure charge in accordance with Annex VIII, point 5.

Trains equipped with the European Train Control System (ETCS) running on lines equipped with national command control and signalling systems shall enjoy a temporary reduction of the infrastructure charge in accordance with Annex VIII, point 5. ***The infrastructure manager shall be able to ensure that such a reduction does not result in a loss of revenue. This reduction shall be offset by higher***

***charges on the same railway line for  
trains not equipped with ETCS.***

Or. fr

*Justification*

*The equipment of trains with the ETCS system should be supported through a bonus-malus system which would not lead to a reduction of resources for the infrastructure manager. An approach by railway line is preferred for the implementation of this bonus-malus system. Furthermore, there is no reason for giving the Commission unilateral powers to intervene.*

**Amendment 544**

**Artur Zasada, Bogdan Kazimierz Marcinkiewicz**

**Proposal for a directive**

**Article 32 – paragraph 3 – subparagraph 1**

*Text proposed by the Commission*

3. Trains equipped with the European Train Control System (ETCS) running on lines equipped with national command control and signalling systems shall enjoy a temporary reduction of the infrastructure charge ***in accordance with Annex VIII, point 5.***

*Amendment*

3. Trains equipped with the European Train Control System (ETCS) running on lines equipped with national command control and signalling systems shall enjoy a temporary reduction of the infrastructure charge ***on lines covered by the European Deployment Plan on which ERTMS is installed.***

Or. pl

**Amendment 545**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**

**Article 32 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

***Annex VIII, point 5 may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

*Amendment*

***deleted***

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 546**  
**Sabine Wils**

**Proposal for a directive**  
**Article 32 – paragraph 3 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Annex VIII, point 5 may be amended in the light of experience in accordance with the procedure referred to in Article 60.*

*deleted*

*Justification*

*Essential element not falling under the delegated acts procedure.*

**Amendment 547**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Article 35 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Infrastructure charging schemes shall encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network through a performance scheme. This may include penalties for actions which disrupt the operation of the

1. Infrastructure charging schemes shall encourage railway undertakings and the infrastructure manager to minimise disruption and improve the performance of the railway network through a performance scheme. This may include penalties for actions which disrupt the operation of the

network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance.

network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance, *without prejudice to any liability rules in force.*

Or. en

*Justification*

*Performance schemes are not related to liability rules - i.e. passenger rights or freight quality agreements.*

**Amendment 548**

**Michael Cramer, Isabelle Durant**

**Proposal for a directive**

**Article 35 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2 a. The Commission shall evaluate the indicative list of basic principles of the performance scheme for railway infrastructure in Annex VIII (4) after a period of 4 years.***

Or. en

*Justification*

*Performance indicators can evolve over time and have already been adapted by the railway sector itself. A review of indicators would make sure that market developments are taken account of.*

**Amendment 549**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**

**Article 35 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***The basic principles of the performance scheme as listed in Annex VIII, point 4 shall apply throughout the network.*** ***deleted***

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 550**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 35 – paragraph 2 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***Annex VIII, point 4 may be amended in the light of experience in accordance with the procedure referred to in Article 60.*** ***deleted***

Or. fr

*Justification*

*After having moved the main elements of Annex VIII point 4 to the main text, the annex contains more detailed elements of the performance scheme which cannot be modified by the Commission on the pretext of ensuring a sufficient degree of flexibility.*

**Amendment 551**  
**Sabine Wils**

**Proposal for a directive**  
**Article 35 – paragraph 2 – subparagraph 2**



*Text proposed by the Commission*

*Amendment*

***Annex VIII, point 4 may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

***deleted***

Or. en

*Justification*

*Essential element not falling under the delegated acts procedure.*

### **Amendment 552**

**Olga Sehnalová**

#### **Proposal for a directive**

#### **Article 36 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

Infrastructure managers may levy an appropriate charge for capacity that is allocated but not used. This charge shall provide incentives for efficient use of capacity. If ***there is more than one applicant for a train path*** to be allocated under the annual timetable exercise, a reservation charge shall be levied.

Infrastructure managers may levy an appropriate charge for capacity that is allocated but not used. This charge shall provide incentives for efficient use of capacity. If ***two or more applicants request overlapping train paths*** to be allocated under the annual timetable exercise, a reservation charge shall be levied ***on the applicant to which the entire train path or a part of it was allocated but not used.***

Or. en

*Justification*

*In case that more applicants request a train path, a reservation charge shall be imposed only in situation when train path is allocated to an applicant that does not use it.*

### **Amendment 553**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 38 – paragraph 4**

*Text proposed by the Commission*

4. When an applicant intends to request infrastructure capacity with a view to operating an international passenger service as defined in Article 2, it shall inform the infrastructure managers and the regulatory bodies concerned. In order to enable them to assess ***whether the purpose of the international service is to carry passengers between stations located in different Member States, and*** what the potential economic impact on existing public service contracts is, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with a right to limit access under Article 9(3) and any railway undertaking performing the public service contract on the route of that international passenger service is informed.

*Amendment*

4. When an applicant intends to request infrastructure capacity with a view to operating an international ***and/or national*** passenger service as defined in Article 2 , it shall inform the infrastructure managers and the regulatory bodies concerned. In order to enable them to assess what the potential economic impact on existing public service contracts is, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with a right to limit access under Article 9(3) and any railway undertaking performing the public service contract on the route of this international ***and/or national*** passenger service is informed.

Or. fr

*Justification*

*This amendment seeks to take account of the opening-up of national passenger transport services to competition.*

**Amendment 554**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 40 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

Member States shall ensure that representatives of infrastructure managers whose allocation decisions have an impact on other infrastructure managers associate

*Amendment*

Member States shall ensure that representatives of infrastructure managers whose allocation decisions have an impact on other infrastructure managers associate

in order to coordinate the allocation of or to allocate all relevant infrastructure capacity at an international level, without prejudice to the specific rules contained in Union legislation on rail freight oriented networks. Appropriate representatives of infrastructure managers from third countries may be associated with these procedures.

in order to coordinate the allocation of or to allocate all relevant infrastructure capacity at an international level, without prejudice to the specific rules contained in Union legislation on rail freight oriented networks. ***The participants in this cooperation shall ensure that its membership, methods of operation and all relevant criteria which are used for assessing and allocating infrastructure capacity be made publicly available.*** Appropriate representatives of infrastructure managers from third countries may be associated with these procedures.

Or. fr

#### *Justification*

*This amendment seeks to integrate Article 40(4) into Article 40(1).*

#### **Amendment 555** **Roberts Zile**

#### **Proposal for a directive** **Article 40 – paragraph 2**

##### *Text proposed by the Commission*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of ***and invited to attend as observers all meetings at which*** common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

##### *Amendment*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

Or. en

*Justification*

*Text of the Commission proposal provides too high degree of interventionism of the Commission and regulatory bodies in the activities of associations of infrastructure managers, therefore a more clear line between the supervisory/observatory role of the regulator and the business should be drawn.*

**Amendment 556**

**Georges Bach**

**Proposal for a directive  
Article 40 – paragraph 2**

*Text proposed by the Commission*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of ***and invited to attend as observers all meetings at which*** common principles and practices for the allocation of infrastructure ***are developed***. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56 .

*Amendment*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of common principles and practices for the allocation of infrastructure. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

Or. fr

*Justification*

*The legal system applicable in the European Union allows undertakings to organise their activities freely, without being obliged to invite observers. The Commission and the regulatory bodies shall be informed of the decisions taken by the undertakings.*

**Amendment 557**

**Michael Cramer, Isabelle Durant**

**Proposal for a directive  
Article 40 – paragraph 2**

*Text proposed by the Commission*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of ***and invited to attend as observers all meetings at which*** common principles and practices for the allocation of infrastructure ***are developed***. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

*Amendment*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of common principles and practices for the allocation of infrastructure. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

Or. en

*Justification*

*Commission as well as regulatory bodies need to be well informed, but they do not need to be part of the finding of business decisions.*

**Amendment 558**  
**Sabine Wils**

**Proposal for a directive**  
**Article 40 – paragraph 2**

*Text proposed by the Commission*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of ***and invited to attend as observers all meetings at*** which common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

*Amendment*

2. The Commission and representatives of the regulatory bodies, which co-operate according to Article 57, shall be informed of which common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

Or. en

## *Justification*

*European Commission and regulatory bodies have different roles, controlling, find solution as arbiter and sanctioning are their tasks while strategic decisions compete to others fully in compliance of the provisions of this Directive.*

### **Amendment 559** **Inés Ayala Sender**

#### **Proposal for a directive** **Article 40 – paragraph 2**

##### *Text proposed by the Commission*

2. The Commission ***and representatives of the regulatory bodies, which co-operate according to Article 57***, shall be informed of and invited to attend as observers all meetings at which common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

##### *Amendment*

2. The Commission shall be informed of and invited to attend as observers all meetings at which common principles and practices for the allocation of infrastructure are developed. In the case of IT-based allocation systems, the regulatory bodies shall receive sufficient information from these systems to allow them to perform their regulatory supervision in accordance with the provisions of Article 56.

Or. es

### **Amendment 560** **Dominique Riquet, Dominique Vlasto, Michel Dantin**

#### **Proposal for a directive** **Article 40 – paragraph 3**

##### *Text proposed by the Commission*

3. At any meeting or other activity undertaken to permit the allocation of infrastructure capacity for trans-network train services, decisions shall ***only*** be taken by representatives of infrastructure managers.

##### *Amendment*

3. At any meeting or other activity undertaken to permit the allocation of infrastructure capacity for trans-network train services, decisions shall be taken by representatives of infrastructure managers. ***In case of disagreement between the representatives of the infrastructure managers, the matter shall be referred to***

*the network of regulatory bodies defined in Article 57 for arbitration.*

Or. fr

*Justification*

*This amendment seeks to provide for the possibility of arbitration by the network of regulatory bodies on matters which cannot be resolved between the infrastructure managers.*

**Amendment 561**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive  
Article 40 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

***4. The participants in the cooperation referred to paragraph 1 shall ensure that its membership, methods of operation and all relevant criteria which are used for assessing and allocating infrastructure capacity be made publicly available.***

*deleted*

Or. fr

*Justification*

*This amendment seeks to move this paragraph to Article 40(1).*

**Amendment 562**

**Ramon Tremosa i Balcells**

**Proposal for a directive  
Article 40 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

Working in cooperation as referred to in paragraph 1, infrastructure managers shall assess the need for, and may where necessary propose and organise

Working in cooperation as referred to in paragraph 1, infrastructure managers shall assess the need for, and may where necessary propose and organise

international train paths to facilitate the operation of freight trains which are subject to an ad hoc request as referred to in Article 48.

international train paths to facilitate the operation of freight trains which are subject to an ad hoc request as referred to in Article 48. ***This cooperation should entail putting in place mechanisms to ensure that responses are given to ad hoc requests from international rail services within five working days.***

Or. es

*Justification*

*It is unclear whether the five-day response time imposed in Article 48 still applies in this case.*

**Amendment 563**

**Juozas Imbrasas**

**Proposal for a directive**

**Article 40 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5 a. Member States may lay down different rules for networks technologically separated from the main EU railway network if specific cooperation in the allocation of infrastructure capacities for traffic originating from or destined for third countries is needed.***

Or. en

**Amendment 564**

**Sabine Wils**

**Proposal for a directive**

**Article 40 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5 a. Member States may lay down different rules for networks***



*technologically separated from the main EU railway network if specific cooperation in the allocation of infrastructure capacities for traffic originating from or destined for third countries is needed.*

Or. en

*Justification*

*Regarding capacity allocation and coordination with third countries the concerned Member States - i.e. the Baltic states - must be empowered to lay down specific rules applying to the their incoming or outgoing traffic with third countries.*

**Amendment 565**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 41 – paragraph 1**

*Text proposed by the Commission*

1. Requests for infrastructure capacity may be made by applicants ***within the meaning of this Directive*** .

*Amendment*

1. Requests for infrastructure capacity may be made by applicants. ***In order to use such infrastructure capacity, and on the European rail network for competitive freight, applicants shall appoint a railway undertaking to conclude an agreement with the infrastructure manager in accordance with Article 28.***

Or. fr

*Justification*

*This amendment takes up the wording used in Regulation (EU) No 913/2010 on a European rail network for competitive freight, for this same network and without seeking to extend its principle.*

**Amendment 566**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 41 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3. The Commission may adopt implementing measures setting out the details of the criteria to be followed for the application of paragraph 2. Those measures designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3).**

**deleted**

Or. fr

*Justification*

*Abuse by the Commission of its powers to intervene at national rail level.*

**Amendment 567**  
**Sabine Wils**

**Proposal for a directive**  
**Article 42 – paragraph 6 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

As from 1 January 2010, an initial framework agreement may be drawn up for a period of five years, renewable once, on the basis of the capacity characteristics used by applicants operating services before 1 January 2010, in order to take account of specialised investments or the existence of commercial contracts. ***The regulatory body referred to in Article 55 shall be responsible for authorising the entry into force of such an agreement.***

As from 1 January 2010, an initial framework agreement may be drawn up for a period of five years, renewable once, on the basis of the capacity characteristics used by applicants operating services before 1 January 2010, in order to take account of specialised investments or the existence of commercial contracts.

Or. en

*Justification*

*The Member state may inform and consult the Regulatory body on the framework agreement concluded by the infrastructure manager and an applicant if it wish to do so, according to paragraph 1, but it is out of scope of the regulatory body whether to authorise or not the entry of force of such an agreement unless there is a specific claim by other applicants and there is a dispute.*

**Amendment 568**  
**Juozas Imbrasas**

**Proposal for a directive**  
**Article 43 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

The infrastructure manager shall adhere to the schedule for capacity allocation set out in Annex IX.

*Amendment*

The infrastructure manager shall adhere to the schedule for capacity allocation set out in Annex IX. ***Member States may adopt different schedules for capacity allocation for networks technologically separated from main EU railway network and to allow coordination with third countries' railway networks.***

Or. en

**Amendment 569**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 43 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

***Annex IX may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

*Amendment*

***deleted***

Or. fr

*Justification*

*Abuse by the Commission of its powers to intervene at national rail level.*

**Amendment 570**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**

**Article 43 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Annex IX may be amended in the light of experience in accordance with the procedure referred to in Article 60.*                      *deleted*

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 571**

**Izaskun Bilbao Barandica**

**Proposal for a directive**

**Article 43 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. Infrastructure managers shall agree with the other relevant infrastructure managers concerned which international train paths are to be included in the working timetable, before commencing consultation on the draft working timetable. Adjustments shall only be made if absolutely necessary.

2. Infrastructure managers shall agree with the other relevant infrastructure managers concerned which international train paths are to be included in the working timetable, before commencing consultation on the draft working timetable. Adjustments shall only be made if absolutely necessary ***and must be duly justified.***

Or. es

*Justification*

*This would bring greater transparency to management.*

**Amendment 572**  
**Sabine Wils**

**Proposal for a directive**  
**Article 44 – paragraph 4**

*Text proposed by the Commission*

4. Applicants **shall** request infrastructure capacity crossing more than one network by applying to one infrastructure manager. That infrastructure manager shall then be permitted to act on behalf of the applicant to seek capacity with the other relevant infrastructure managers.

*Amendment*

4. Applicants **may** request infrastructure capacity crossing more than one network by applying to one infrastructure manager. That infrastructure manager shall then be permitted to act on behalf of the applicant to seek capacity with the other relevant infrastructure managers.

Or. en

*Justification*

*In order to keep coherence with the recent adopted Freight Corridor Regulation where there is no obligation for applicants to request capacity to one single infrastructure manager.*

**Amendment 573**  
**Izaskun Bilbao Barandica**

**Proposal for a directive**  
**Article 45 – paragraph 4 – introductory part**

*Text proposed by the Commission*

4. The infrastructure manager shall, upon request, within **a reasonable time** and in due time for the coordination process referred to in Article 46, make the following information available free of charge to applicants in written form for review:

*Amendment*

4. The infrastructure manager shall, upon request, within **a maximum of one month from the allocation of train paths** and in due time for the coordination process referred to in Article 46, make the following information available free of charge to applicants in written form for review:

Or. es

*Justification*

*The legal uncertainty that may result from imposing conditions such as ‘a reasonable time’ weakens the transparency and security conditions imposed in indents a) to e). It is thus necessary to set clear deadlines.*

**Amendment 574**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 46 – paragraph 6**

*Text proposed by the Commission*

6. Without prejudice to the existing appeal procedures and to **Article 56**, in the event of disputes relating to the allocation of infrastructure capacity, a dispute resolution system shall be made available in order to resolve such disputes promptly. This system shall be set out in the network statement. If this system is applied, a decision shall be reached within a time limit of 10 working days.

*Amendment*

6. Without prejudice to the existing appeal procedures and to **the provisions of this Directive**, in case of disputes relating to the allocation of infrastructure capacity, a dispute resolution system shall be made available in order to resolve such disputes promptly. This system shall be set out in the network statement. If this system is applied, a decision shall be reached within a time limit of 10 working days.

Or. fr

*Justification*

*This amendment seeks to take into account all the provisions of the Directive.*

**Amendment 575**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 47 – paragraph 4 – subparagraph 2**

*Text proposed by the Commission*

In order to guarantee the development of adequate transport services within this framework, in particular to comply with public-service requirements or promote the development of rail freight, Member States

*Amendment*

In order to guarantee the development of adequate transport services within this framework, in particular to comply with public-service requirements or promote the development of rail freight, **particularly**

may take any measures necessary, under non-discriminatory conditions, to ensure that such services are given priority when infrastructure capacity is allocated.

**international freight**, Member States may take any measures necessary, under non-discriminatory conditions, to ensure that such services are given priority when infrastructure capacity is allocated.

Or. es

*Justification*

*If we wish to encourage use of rail transport at European level, international rail services should be given priority status.*

**Amendment 576**  
**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 47 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

**5. The importance of freight services and in particular international freight services shall be given adequate consideration in determining priority criteria.**

**5. Priority criteria shall include freight services and in particular international freight services.**

Or. es

*Justification*

*The phrase ‘shall be given adequate consideration’ is insufficiently specific and overly ambiguous; if the Commission intends to promote rail freight, particularly international freight, it should say so in clear terms.*

**Amendment 577**  
**Izaskun Bilbao Barandica**

**Proposal for a directive**  
**Article 51 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

**1. Within six months of the completion of**

**1. As soon as a capacity analysis is**

a capacity analysis, the infrastructure manager shall produce a capacity enhancement plan.

**available**, the infrastructure manager shall produce a capacity enhancement plan.

Or. es

*Justification*

*This would give greater flexibility and increase the ability to act without delay, which could improve the provision of services.*

**Amendment 578**

**Peter van Dalen**

**Proposal for a directive**

**Article 51 – paragraph 2 – subparagraph 4**

*Text proposed by the Commission*

The plan may be subject to prior approval by the Member State. ***The regulatory body referred to in Article 55 may issue an opinion on whether the actions identified in the plan are appropriate.***

*Amendment*

The plan may be subject to prior approval by the Member State.

Or. nl

**Amendment 579**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 51 – paragraph 2 – subparagraph 4 a (new)**

*Text proposed by the Commission*

***Where a trans-European network or a train path having a significant impact on one or several trans-European networks is congested, the network of regulatory bodies defined in Article 57 may issue an opinion on whether the actions in the plan are appropriate.***

*Amendment*



*Justification*

*This amendment seeks to provide for the network of regulatory bodies to be consulted if one or several trans-European networks were to be significantly affected by congestion.*

**Amendment 580**

**Michel Dantin, Dominique Vlasto**

**Proposal for a directive**

**Article 52 – paragraph 2**

*Text proposed by the Commission*

2. For congested infrastructure in particular, the infrastructure manager shall require the surrender of **a train path** which, over a period of at least one month, **has** been used less than a threshold quota to be laid down in the network statement, unless this was due to non-economic reasons beyond the operator's control.

*Amendment*

2. For congested infrastructure in particular, the infrastructure manager shall require the surrender of **train paths** which, over a period of at least one month, **have** been used less than a threshold quota to be laid down in the network statement, unless this was due to non-economic reasons beyond the operator's control. **The infrastructure manager shall first consult the railway undertaking in order to obtain information about the insufficient use of these train paths.**

Or. fr

**Amendment 581**

**Izaskun Bilbao Barandica**

**Proposal for a directive**

**Article 53 – paragraph 3**

*Text proposed by the Commission*

3. The infrastructure manager shall inform **in due time** interested parties about unscheduled maintenance work.

*Amendment*

3. The infrastructure manager shall inform interested parties about unscheduled maintenance work **at east one week prior to it.**

Or. es

*Justification*

*It makes sense for interested parties to be informed of when maintenance work is to begin so that, despite the unscheduled nature of such work, the necessary precautions may be taken.*

**Amendment 582**  
**Izaskun Bilbao Barandica**

**Proposal for a directive**  
**Article 54 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Infrastructure managers shall have action plans to deal with accidents or technical failures.***

Or. es

*Justification*

*Infrastructure managers should have clearly defined action plans to deal with accidents or technical failures. These plans would help draw up contingency plans more quickly and effectively and should be shared among all infrastructure managers as good practices.*

**Amendment 583**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 54 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

***3. Member States may require railway undertakings to be involved in assuring the enforcement and monitoring of their own compliance with the safety standards and rules.***

***3. Save in the case of force majeure, including urgent safety-critical work, a train path allocated to a freight operation pursuant to this Article may not be cancelled less than two months before its scheduled time in the working timetable if the applicant concerned does not give its approval for such cancellation. In such a case the infrastructure manager concerned shall make an effort to propose to the applicant a train path of an***

*equivalent quality and reliability which the applicant has the right to accept or refuse. If the applicant refuses, he shall be entitled at least to reimbursement of the corresponding charge.*

Or. fr

*Justification*

*This amendment provides that if a train path is cancelled for any reason other than force majeure, alternative solutions or a reimbursement of the charge shall be provided. It takes up and supplements the wording already included in the regulation on European freight corridors (Regulation (EU) No 913/2010).*

**Amendment 584**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Section 4 – title**

*Text proposed by the Commission*

*Amendment*

Regulatory *body*

Regulatory *bodies*

Or. fr

*Justification*

*It is more appropriate to use the plural given that this section deals with the national regulatory bodies brought together in a network.*

**Amendment 585**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 55 – title**

*Text proposed by the Commission*

*Amendment*

Regulatory body

*National* regulatory *bodies*

Or. fr

*Justification*

*This amendment aims to make the heading of Article 55 more specific, given the changes made to Article 57.*

**Amendment 586**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 55 – paragraph 1**

*Text proposed by the Commission*

1. Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. 1 It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract.

*Amendment*

1. Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. 1 It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract. ***The national regulatory body shall have the necessary administrative capacity in terms of staff and resources to carry out the tasks assigned to it by Article 56. The required level of staff should be directly linked to the market needs and vary accordingly.***

Or. en

*Justification*

*The independence, resources and staff of the Regulatory body are fundamental for the functioning of the body and its capacity to deal with complains. The required level of staff should be directly linked to the market needs and vary accordingly.*

**Amendment 587**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 55 – paragraph 1**

*Text proposed by the Commission*

1. Each Member State shall establish a single national regulatory **body** for the railway sector. This **body** shall be a stand-alone **authority** which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract.

*Amendment*

1. Each Member State shall establish a single national regulatory **authority** for the railway sector. This **authority** shall be a stand-alone **body** which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract. **The regulatory authority shall have the necessary organisational capacity to carry out the tasks assigned to it by Article 56.**

Or. fr

*Justification*

*This amendment takes up the provisions referred to above on the role and tasks of a regulatory authority in the context of implementing services of general interest.*

**Amendment 588**  
**Werner Kuhn**

**Proposal for a directive**  
**Article 55 – paragraph 1**

*Text proposed by the Commission*

(1) Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational,

*Amendment*

(1) Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational,

functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract.

functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, funding decisions, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract. ***The regulatory body shall have the necessary human and material resources to carry out the tasks assigned to it by Article 56.***

Or. de

#### *Justification*

*The regulatory body must have the necessary human and material resources to carry out its tasks and work effectively.*

#### **Amendment 589 Marian-Jean Marinescu**

#### **Proposal for a directive Article 55 – paragraph 1**

##### *Text proposed by the Commission*

1. Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation, ***funding decisions***, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. 1 It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract.

##### *Amendment*

1. Each Member State shall establish a single national regulatory body for the railway sector. This body shall be a stand-alone authority which is, in organisational, functional, hierarchical and decision-making terms, legally distinct and independent from any other public authority. It shall also be independent in its organisation ***and financing***, legal structure and decision-making from any infrastructure manager, charging body, allocation body or applicant. 1 It shall furthermore be functionally independent from any competent authority involved in the award of a public service contract.

**Amendment 590**  
**Werner Kuhn**

**Proposal for a directive**  
**Article 55 – paragraph 1 – point a (new)**

*Text proposed by the Commission*

*Amendment*

***(a) The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of one month from receipt of all information. In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body.***

Or. de

*Justification*

*A key yardstick for the effectiveness of a regulatory body is the speed with which it takes decisions. Accordingly, decisions and, where necessary, corrective measures, should be taken within one month.*

**Amendment 591**  
**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 55 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and

3. The president and governing board of the regulatory body for the railway sector shall be appointed ***by the competent***

renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

*parliament* for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. en

#### *Justification*

*In order to adapt to the National Institutional structure of each Member State.*

#### **Amendment 592** **Gilles Pargneaux**

#### **Proposal for a directive** **Article 55 – paragraph 3**

##### *Text proposed by the Commission*

3. The president and governing board of the regulatory **body** for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no

##### *Amendment*

3. The president and governing board of the regulatory **authority** for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no



professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. fr

### *Justification*

*There is no need to go into the rules for appointments, which are a matter for the Member States.*

### **Amendment 593** **Georges Bach**

#### **Proposal for a directive** **Article 55 – paragraph 3**

##### *Text proposed by the Commission*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They ***shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office.*** Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a ***period of not less than three years.*** They shall have full authority over the recruitment and management of the staff of the regulatory body.

##### *Amendment*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They ***must act entirely independently of market interests in the rail sector and may under no circumstances be influenced by instructions from a government or a private or public undertaking.*** After ***their term of office,*** they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a ***reasonable period.*** They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. fr

### *Justification*

*The independence of the members of the regulatory body must be guaranteed. However, conditions which are too strict, such as the period of three years before and after their appointment to the regulatory body during which they may have no link with the rail sector, will make it impossible in certain Member States to find candidates with enough experience and training to perform the specialised duties involved.*

#### **Amendment 594**

**Michel Dantin, Dominique Vlasto, Dominique Riquet**

#### **Proposal for a directive**

#### **Article 55 – paragraph 3**

##### *Text proposed by the Commission*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

##### *Amendment*

3. The president and governing board of the regulatory body for the railway sector shall be appointed ***jointly by the national parliament, administrative and/or ordinary courts, and national consultative assemblies, with no possibility of dismissal***, for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. fr

#### **Amendment 595**

**Werner Kuhn**

**Proposal for a directive**  
**Article 55 – paragraph 3**

*Text proposed by the Commission*

(3) The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

*Amendment*

(3) The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence **and shall be confirmed by the national parliament**. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. de

*Justification*

*The decision on the president and governing board of the regulatory body for the railway sector are important political decisions which should be confirmed by the national parliament to ensure maximum legitimacy.*

**Amendment 596**  
**Sabine Wils**

**Proposal for a directive**  
**Article 55 – paragraph 3**

*Text proposed by the Commission*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and

*Amendment*

3. The president and governing board of the regulatory body for the railway sector shall be appointed **by the national**

renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period **of three years** before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period **of not less than three years**. They shall have full authority over the recruitment and management of the staff of the regulatory body.

**parliament** for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a **reasonable** period before their appointment, and **explicitly stating it by an appropriate declaration of interest** during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a **reasonable** period. They shall have full authority over the recruitment and management of the staff of the regulatory body **according to national laws**.

Or. en

#### *Justification*

*Member states will bear the responsibility through their national parliament which will have the responsibility in transposing the provision of this directive to appoint president and management board of the regulatory body: they shall be asked to undersign an appropriate declaration of interest stating the absence of any link or interest with the actors of the railway sector.*

#### **Amendment 597**

**Artur Zasada, Bogdan Kazimierz Marcinkiewicz**

#### **Proposal for a directive**

#### **Article 55 – paragraph 3**

##### *Text proposed by the Commission*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or

##### *Amendment*

3. The president and governing board of the regulatory body for the railway sector shall be appointed **by the relevant body of the Member State concerned** for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have

responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. pl

#### *Justification*

*In order not to infringe the principle of subsidiarity, there should be freedom to choose the body which appoints the president and governing board responsible for regulation of the railway sector. In many countries the regulatory body is a government entity and cannot, therefore, be appointed by, for example, the parliament.*

#### **Amendment 598** **Izaskun Bilbao Barandica**

#### **Proposal for a directive** **Article 55 – paragraph 3**

##### *Text proposed by the Commission*

3. The president and governing board of the regulatory body for the railway sector shall be appointed for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of office. Afterwards, they shall have no

##### *Amendment*

3. The president and governing board of the regulatory body for the railway sector shall be ***nominated and appointed by the relevant institutions*** for a fixed and renewable term under clear rules which guarantee independence. They shall be selected from among persons who have had no professional position or responsibility, interest or business relationship, directly or indirectly, with the regulated undertakings or entities for a period of three years before their appointment, and during their term of

professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

office. Afterwards, they shall have no professional position or responsibility, interest or business relationship with any of the regulated undertakings or entities for a period of not less than three years. They shall have full authority over the recruitment and management of the staff of the regulatory body.

Or. es

*Justification*

*This would respect the way the various institutional systems work in each country and region.*

**Amendment 599**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 56 – title**

*Text proposed by the Commission*

*Amendment*

Functions of the regulatory body

Functions of ***national*** regulatory ***bodies***

Or. fr

*Justification*

*This amendment is intended to make the title of Article 56 more specific.*

**Amendment 600**

**Sabine Wils**

**Proposal for a directive**

**Article 56 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. Without prejudice to Article 46(6), an applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against

1. Without prejudice to Article 46(6), an applicant shall have the right to appeal to the regulatory body if it believes that it has been unfairly treated, discriminated against

or is in any other way aggrieved, **and in particular against** decisions adopted by the infrastructure manager or where appropriate the railway undertaking or the operator of a service facility concerning:

or is in any other way aggrieved, **due to** decisions adopted by the infrastructure manager or where appropriate **by** the railway undertaking or **by the railway operator** of a service facility **and a dispute arises** concerning:

Or. en

### *Justification*

*Underlining that the right to appeal to the regulatory body is granted when a dispute arises due to an unfair or discriminatory decision.*

### **Amendment 601**

**Ramon Tremosa i Balcells**

### **Proposal for a directive**

**Article 56 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1 a. The regulatory body shall be required to take a decision on any complaints or act on its own initiative and take action to remedy the situation within a maximum period of two weeks. In the event of an appeal against a refusal to grant infrastructure capacity, or against the terms of an offer of capacity, the regulatory body shall either confirm that no modification of the infrastructure manager's decision is required, or it shall require modification of that decision in accordance with directions specified by the regulatory body.***

***Regulatory bodies not respecting their mandate and deadlines will be under scrutiny of the European Commission in accordance with the procedure referred to in Article 63(2).***

Or. en

### *Justification*

*This amendment serves to restructure the articles on the regulatory body to improve clarity. It covers the content of paragraphs 5.1 and 5.3 of Article 56. We ask to shorten the decision of the RB to 2 weeks. We suggest to include also a follow-up procedure in case that the Regulator does not respect this deadline because of a lack of resources, time, etc. The ideal approach would be to refer the case to the European regulatory department.*

#### **Amendment 602** **Georges Bach**

##### **Proposal for a directive** **Article 56 – paragraph 2**

###### *Text proposed by the Commission*

2. The regulatory body shall also have the power to monitor the competition in the rail services markets and review points (a) to (g) of paragraph 1 ***on its own initiative and*** with a view to preventing discrimination between applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary organisational capacity to carry out these tasks.

###### *Amendment*

2. The regulatory body shall also have the power to monitor the competition in the rail services markets and review points (a) to (g) of paragraph 1 with a view to preventing discrimination between applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary organisational capacity to carry out these tasks.

Or. fr

#### **Amendment 603** **Werner Kuhn**

##### **Proposal for a directive** **Article 56 – paragraph 2**

###### *Text proposed by the Commission*

(2) The regulatory body shall also have the power to monitor the competition in the rail services markets and review points (a) to (g) of paragraph 1 on its own initiative

###### *Amendment*

(2) The regulatory body shall also have the power to monitor the competition in the rail services markets and review points (a) to (g) of paragraph 1 on its own initiative



and with a view to preventing discrimination between applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary **organisational capacity** to carry out these tasks.

and with a view to preventing discrimination between applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary **human and material resources** to carry out these tasks.

Or. de

### *Justification*

*The regulatory body must have the necessary human and material resources to carry out its tasks and work effectively.*

### **Amendment 604** **Sabine Wils**

#### **Proposal for a directive** **Article 56 – paragraph 2**

##### *Text proposed by the Commission*

2. The regulatory body shall also have the power to monitor the **competition** in the rail services markets **and review points (a) to (g) of paragraph 1 on its own initiative and** with a view to preventing discrimination between applicants. **It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants.** The regulatory body shall have the necessary organisational capacity to carry out these tasks.

##### *Amendment*

2. The regulatory body shall also have the power to monitor the **state** in the rail services markets with a view to preventing discrimination between applicants. **Among others it shall check if discriminatory clauses in the network statement are used by the infrastructure manager to discriminate between applicants.** The regulatory body shall have the necessary organisational capacity to carry out these tasks.

Or. en

## Justification

*Clarification of powers: monitoring the state of rail market is wider and more appropriate than limiting it to competitiveness and more helpful in a preventive way to solve eventual disputes. Checking and intervening to stop the effects of a discriminatory act is a clear way to solve a dispute concerning unfair treatment: providing interpretation on possible use of provisions is out of the scope of an arbiter.*

### Amendment 605

Antonio Cancian, Carlo Fidanza

#### Proposal for a directive

#### Article 56 – paragraph 2

##### *Text proposed by the Commission*

2. The regulatory body shall also have the power to monitor the competition in the rail services markets and review points (a) to (g) of paragraph 1 on its own initiative and with a view to preventing discrimination between applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the **necessary** organisational capacity to carry out these tasks.

##### *Amendment*

2. The regulatory body shall also have the power to monitor the competition in the rail services markets and review points (a) to (g) of paragraph 1 on its own initiative and with a view to preventing discrimination between applicants. It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have **sufficient** organisational capacity to carry out these tasks **in the light of the size of the network, the volume of traffic and the number of operators**.

Or. it

### Amendment 606

Peter van Dalen

#### Proposal for a directive

#### Article 56 – paragraph 2

##### *Text proposed by the Commission*

2. The regulatory body **shall also have the power to monitor the competition in the**

##### *Amendment*

2. **If** the regulatory body **receives an appeal pursuant to paragraph 1**, it shall,

***rail services markets and review points (a) to (g) of paragraph 1 on its own initiative and with a view to preventing discrimination between applicants.*** It shall, in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary organisational capacity to carry out these tasks.

in particular, check whether the network statement contains discriminatory clauses or creates discretionary powers for the infrastructure manager that may be used to discriminate between applicants. The regulatory body shall have the necessary organisational capacity to carry out these tasks.

Or. nl

**Amendment 607**  
**Sabine Wils**

**Proposal for a directive**  
**Article 56 – paragraph 3**

*Text proposed by the Commission*

3. The regulatory body shall ensure that charges set by the infrastructure manager comply with Chapter IV, Section 2 and are non-discriminatory. ***Negotiations*** between applicants and an infrastructure manager concerning the level of ***infrastructure*** charges ***shall only be permitted if these are carried out under the supervision of the regulatory body.*** The regulatory body shall intervene if negotiations ***are likely to*** contravene the requirements of this Chapter.

*Amendment*

3. The regulatory body shall ensure that charges set by the infrastructure manager comply with Chapter IV, Section 2 and are non-discriminatory ***and negotiations*** between applicants and an infrastructure manager concerning the level of ***those*** charges are ***consistent with the provisions of Chapter IV, Section 2. Under request of actors set in paragraph 1,*** the regulatory body shall intervene if negotiations contravene the requirements of this Chapter.

Or. en

*Justification*

*Enhancing the compulsory role of arbiter of the regulatory body: monitoring the process and intervening in case of non compliance.*

**Amendment 608**  
**Peter van Dalen**

**Proposal for a directive**  
**Article 56 – paragraph 3**

*Text proposed by the Commission*

3. The regulatory body shall ensure that charges set by the infrastructure manager comply with Chapter IV, Section 2 and are non-discriminatory. ***Negotiations between applicants and an infrastructure manager concerning the level of infrastructure charges shall only be permitted if these are carried out under the supervision of the regulatory body. The regulatory body shall intervene if negotiations are likely to contravene the requirements of this Chapter.***

*Amendment*

3. The regulatory body shall ensure that charges set by the infrastructure manager comply with Chapter IV, Section 2 and are non-discriminatory.

Or. nl

*Justification*

*The regulatory body has a supervisory function, does not make policy and is not a party to the negotiations between the infrastructure manager and railway undertakings. It performs retrospective checks at the request of one of the parties involved.*

**Amendment 609**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 56 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. The regulatory body shall determine, in accordance with Article 10(2), whether the principal purpose of a service is to carry passengers between stations located in different Member States and, in accordance with Article 11(2), whether the economic equilibrium of a public service contract is compromised by services provided for in Article 10 between***

*a place of departure and a destination which are covered by one or more public service contracts.*

Or. fr

*Justification*

*The power to determine whether the economic equilibrium of a public service is compromised is assigned to the regulatory body by Article 11. It is restated here to make for greater clarity and complete the list of powers to be exercised by the body for the purposes of implementing SGI.*

**Amendment 610**  
**Georges Bach**

**Proposal for a directive**  
**Article 56 – paragraph 4**

*Text proposed by the Commission*

4. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned. Information requested must be supplied without undue delay. ***The regulatory body shall be enabled to enforce such requests with the appropriate sanctions, including fines.*** Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring the competition in the rail services markets in accordance with paragraph 2. This includes data which are necessary for statistical and market observation purposes.

*Amendment*

4. The regulatory body shall have the power to request relevant information from the infrastructure manager, applicants and any third party involved within the Member State concerned. Information requested must be supplied without undue delay. Information to be supplied to the regulatory body includes all data which the regulatory body requires in the framework of its appeal function and in its function of monitoring the competition in the rail services markets in accordance with paragraph 2. This includes data which are necessary for statistical and market observation purposes. ***Should the infrastructure manager fail to provide such information, the regulatory body shall be empowered to take appropriate legal steps.***

Or. fr

**Amendment 611**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of **two months** from receipt of **all information**. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.

*Amendment*

The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of **20 working days** from receipt of **the complaint**. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.

Or. en

*Justification*

*It is crucial that rail companies receive timely decisions on their path applications as well as their arbitration requests.*

**Amendment 612**  
**Werner Kuhn**

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of **two months** from receipt of all information. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.

*Amendment*

The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of **one month** from receipt of all information. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.

*Justification*

*A key yardstick for the effectiveness of a regulatory body is the speed with which it takes decisions. Accordingly, decisions and, where necessary, corrective measures, should be taken within one month.*

**Amendment 613**  
**Sabine Wils**

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information. *Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.*

*Amendment*

The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information.

*Justification*

*Avoiding unclear statements regarding "undesirable developments": corrective decisions shall follow and solve queries and disputes.*

**Amendment 614**  
**Peter van Dalen**

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

The regulatory body shall be required to

*Amendment*

The regulatory body shall be required to

decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information. *Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.*

decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information.

Or. nl

*Justification*

*The regulatory body performs a supervisory function and does not make policy.*

**Amendment 615**  
**Izaskun Bilbao Barandica**

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

5. The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.

*Amendment*

5. The regulatory body shall be required to decide on any complaints and take action to remedy the situation within a maximum period of two months from receipt of all information **and from talks with the parties**. Where appropriate, it shall decide on its own initiative on appropriate measures to correct undesirable developments in these markets, in particular with reference to points (a) to (g) of paragraph 1.

Or. es

*Justification*

*The documentation provided and the views of the parties concerned should be taken into account.*



**Amendment 616**  
**Georges Bach**

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative *instance*. The regulatory body must be able to enforce its decisions with the appropriate sanctions, *including fines*.

*Amendment*

A decision of the regulatory body shall be binding on all parties covered by that decision, and shall not be subject to the control of another administrative *body*, **but shall be subject to judicial review in Member States**. The regulatory body must be able to enforce its decisions with the appropriate sanctions.

Or. fr

**Amendment 617**  
**Michael Cramer, Isabelle Durant, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 56 – paragraph 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**5 a. In the event of conflicts concerning decisions by the regulatory bodies for cross-border transport services, any of the concerned parties may appeal to the European Commission to obtain a binding decision on the compatibility of the decision in question with the EU law.**

**The European Commission should name a responsible service for such appeals no later than three months after the publication of this Directive in the Official Journal.**

**The responsible service shall take a binding decision on the appeal within 20 working days of receipt of the appeal.**

**This arrangement should be evaluated after two years and might lead to the extension of the responsibilities of the**

*responsible Commission service.*

Or. en

*Justification*

*It is crucial that rail companies receive timely decisions on their path applications as well as their arbitration requests. Furthermore, a European service should be available to deal with difficult appeals concerning cross-border services, which should be evaluated after two years.*

**Amendment 618**

**Sabine Wils**

**Proposal for a directive  
Article 56 – paragraph 8**

*Text proposed by the Commission*

*Amendment*

***8. The regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers and, when relevant, railway undertakings, to verify compliance with accounting separation provisions laid down in Article 6.***

***deleted***

***Member States shall ensure that infrastructure managers and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in Article 6(1) and (2) shall provide detailed regulatory accounts to the regulatory body so that it can carry out its different tasks. These regulatory accounts must contain at least the elements set out in Annex X. The regulatory body may also draw conclusions from these accounts concerning state aid issues which it shall report to the authorities responsible for resolving these issues.***

***Annex X may be amended in the light of experience in accordance with the procedure referred to in Article 60.***

*Justification*

*Out of scope of a regulatory body to carry overall audits on all activities of the infrastructure manager and railway undertakings, while the regulatory body has to solve possible disputes, the competent parliamentary authorities have the task to assess the correct implementation of the directive provisions they transposed in their legislative framework.*

**Amendment 619**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 56 – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***8a. The regulatory body shall consult, at least twice a year, the representatives of the users of the rail services (freight and passenger) to take into account their views on the rail market, including the service performance, the infrastructure charges, the amount and the transparency of the rail service prices.***

*Justification*

*Consultation of the rail users would provide relevant information to the Regulatory Body for performing his tasks.*

**Amendment 620**

**Inés Ayala Sender**

**Proposal for a directive**

**Article 56 – paragraph 8 a (new)**

*Text proposed by the Commission*

*Amendment*

***8 a. The regulatory body shall consult, at least twice a year, the representatives of***

*the users of the rail services (freight and passenger) to take into account their views on the rail market, including the service performance, the infrastructure charges, the amount and the transparency of the rail service prices.*

Or. en

*Justification*

*Consultation of the rail users would provide relevant information to the Regulatory Body for performing his tasks and optimising the use of the rail network*

**Amendment 621**

**Dominique Vlasto, Dominique Riquet, Michel Dantin**

**Proposal for a directive**

**Article 56 – paragraph 8 – subparagraph 2**

*Text proposed by the Commission*

Member States shall ensure that infrastructure managers and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in Article 6(1) and (2) shall provide detailed regulatory accounts to the regulatory body so that it can carry out its different tasks. These regulatory accounts must contain at least the elements set out in Annex X. The regulatory body may also draw conclusions from these accounts concerning state aid issues which it shall report to the authorities responsible for resolving these issues.

*Amendment*

Member States shall ensure that infrastructure managers and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management, ***including providers of essential services***, as referred to in Article 6(1) and (2) shall provide detailed regulatory accounts to the regulatory body so that it can carry out its different tasks. These regulatory accounts must contain at least the elements set out in Annex X. The regulatory body may also draw conclusions from these accounts concerning state aid issues which it shall report to the authorities responsible for resolving these issues.

Or. fr

**Amendment 622**

**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**  
**Article 56 – paragraph 8 – subparagraph 3**

*Text proposed by the Commission*

*Amendment*

***Annex X may be amended in the light of experience in accordance with the procedure referred to in Article 60.***      ***deleted***

Or. de

*Justification*

*Under the Lisbon Treaty (Article 290) delegated acts may be used only to supplement or amend non-essential elements of the legislative act. The proposal to give the Commission the power to amend essential aspects of railway policy and regulation by means of delegated acts goes far beyond what would justify the delegation of powers to the Commission. Modifications should therefore be subject to the normal codecision procedure.*

**Amendment 623**  
**Gilles Pargneaux**

**Proposal for a directive**  
**Article 56 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 56a***

***Powers of the regulatory body***

***1. In order to carry out the tasks listed in Article 56 the regulatory body shall have the power to:***

***(a) enforce its decisions with appropriate sanctions, including fines. Decisions of the regulatory body shall be binding on all the parties concerned and shall not be subject to the control of another administrative body.***

***(b) request relevant information from the infrastructure manager, applicants, and any third party involved within the Member State concerned and to enforce such requests with appropriate sanctions, including fines. Information to be***

*supplied to the regulatory body includes all data which the regulatory body requires for the purposes of its appeal function, in its role of monitoring competition on the rail services markets, and in connection with the access to be afforded to citizens to the essential transport facilities specified by the competent authorities. It also includes data necessary for statistical and market observation purposes. Information requested must be supplied without undue delay;*

*(c) carry out audits, or commission external audits, of infrastructure managers and, when relevant, railway undertakings in order to verify compliance with the accounting separation provisions laid down in Article 6.*

*2. Member States shall ensure that decisions taken by the regulatory body are subject to judicial review. Appeals shall not have a suspensive effect on decisions of the regulatory body.*

*3. Member States shall ensure that decisions of the regulatory body are published.*

*4. Member States shall ensure that infrastructure managers and all undertakings or other entities performing rail transport or infrastructure management services of the types referred to in Article 6 provide detailed regulatory accounts to the regulatory body to enable it to carry out its tasks. Those regulatory accounts must contain at least the elements set out in Annex X. The regulatory body may also draw conclusions from the accounts concerning State aid issues, which it shall report to the authorities responsible for resolving those issues.*

Or. fr

*Justification*

*This new article has been inserted for greater clarity. It lists the powers assigned to the regulatory body so as to bring them into line with the development aims of SGI.*

**Amendment 624**

**Carlo Fidanza, Antonio Cancian**

**Proposal for a directive**

**Article 57 – title**

*Text proposed by the Commission*

Cooperation between regulatory bodies

*Amendment*

Cooperation between regulatory bodies  
**and powers of the Commission**

Or. it

*Justification*

*If a single European railway area is to be established, the Commission needs to be given increased powers to regulate the market.*

**Amendment 625**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 57 – paragraph 1**

*Text proposed by the Commission*

1. The national regulatory bodies shall exchange information about their work and decision-making principles and practice and otherwise cooperate for the purpose of coordinating their decision-making across the Union. For this purpose they shall work together in a **working group** that convenes at regular intervals. The Commission shall **support** the regulatory bodies in **this task**.

*Amendment*

1. The national regulatory bodies shall exchange information about their work and decision-making principles and practice and otherwise cooperate for the purpose of coordinating their decision-making across the Union. For this purpose they shall work together in a **network** that convenes at regular intervals. **To this aim the Commission shall ensure active cooperation between the regulatory bodies.**

The **European** Commission shall **be given** the **relevant powers to enforce the pro-**

***active cooperation between the regulatory bodies and take action in case regulatory bodies fail to fulfil their mandate in accordance with the procedure referred to in Article 63(2).***

Or. en

*Justification*

*The Commission should also be given sufficient powers so as to enforce the pro-active cooperation between the regulatory bodies and take action against those who do not report / cooperate.*

**Amendment 626**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 57 – paragraph 1**

*Text proposed by the Commission*

1. The national regulatory bodies shall exchange information about their work and decision-making principles and practice and otherwise cooperate ***for the purpose of coordinating their decision-making across the Union. For this purpose they shall work together in a working group that convenes at regular intervals.*** The Commission ***shall support the regulatory bodies in this task.***

*Amendment*

1. The national regulatory bodies shall ***formally establish a network in order to*** exchange information about their work and decision-making principles and practice ***with a view to coordinating and harmonising them within*** the Union. For this purpose, ***and to pursue their networking activities, they shall hold regular meetings on the initiative of, and chaired by,*** the ***European*** Commission.

Or. fr

*Justification*

*The purpose of this amendment is to establish formal cooperation machinery for national regulatory bodies under the direction of the Commission, namely the ‘network of regulatory bodies’.*

**Amendment 627**

**Werner Kuhn**



**Proposal for a directive**  
**Article 57 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission representatives shall comprise representatives from both the Directorate-General for Competition and the Directorate-General for Mobility and Transport.***

Or. de

*Justification*

*Given the complex and cross-sectoral subject matter, the Commission representatives should be taken from both DGs.*

**Amendment 628**  
**Ádám Kósa**

**Proposal for a directive**  
**Article 57 – paragraph 1 – subparagraph 1 (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall set up a database in which national regulatory bodies shall feed in data on all complaint procedures related to the European Union law, such as the dates of complaints, parties involved, main issues of the procedures and problems of interpretation.***

Or. en

**Amendment 629**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Article 57 – paragraph 3**

*Text proposed by the Commission*

3. In the case of a complaint or an own-initiative investigation on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from them before taking its decision.

*Amendment*

3. In the case of a complaint or an own-initiative investigation on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from them before taking its decision. ***The network of regulatory bodies shall also deliver an opinion.***

Or. fr

*Justification*

*This amendment establishes a procedure whereby the network of regulatory bodies will be called upon to deliver an opinion in the event of a complaint or investigation concerning an international train path.*

**Amendment 630**

**Carlo Fidanza, Antonio Cancian**

**Proposal for a directive**

**Article 57 – paragraph 3**

*Text proposed by the Commission*

3. In the case of a complaint or an own-initiative investigation on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from

*Amendment*

3. In the case of a complaint or an own-initiative investigation on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall ***notify the Commission and*** consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from them before

them before taking its decision.

taking its decision. **Regulatory bodies shall, on a quarterly basis, notify the Commission of all complaints and own-initiative investigations on issues of access or charging relating to international rail services.**

Or. it

### *Justification*

*The Commission needs to be given an enhanced role in relation to disputes regarding international rail services.*

### **Amendment 631**

**Peter van Dalen**

#### **Proposal for a directive**

#### **Article 57 – paragraph 3**

##### *Text proposed by the Commission*

3. In the case of a complaint **or an own-initiative investigation** on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from them before taking its decision.

##### *Amendment*

3. In the case of a complaint on issues of access or charging relating to an international train path, as well as in the framework of monitoring competition on the market related to international rail transport services, the regulatory body concerned shall consult the regulatory bodies of all other Member States through which the international train path concerned runs and request all necessary information from them before taking its decision.

Or. nl

### **Amendment 632**

**Carlo Fidanza, Antonio Cancian**

#### **Proposal for a directive**

#### **Article 57 – paragraph 6 a (new)**

*Text proposed by the Commission*

*Amendment*

***6a. The regulatory body shall notify the Commission of any draft decisions on issues of access or charging relating to an international train path and issues of access or charging relating to international rail services. The Commission shall assess the draft decision's compatibility with Union law and, if necessary, request changes.***

Or. it

*Justification*

*The Commission needs to be given an enhanced role in relation to disputes regarding international rail services.*

**Amendment 633  
Gilles Pargneaux**

**Proposal for a directive  
Article 57 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

***Regulatory bodies shall develop common principles and practices for making decisions for which they are empowered under this Directive. The Commission may adopt implementing measures setting out such common principles and practices. Those measures designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3).***      ***deleted***

Or. fr

*Justification*

*Instead of serving any useful purpose, the above provisions would mean that control over*

*national rail affairs would largely be taken away from Member States.*

**Amendment 634**  
**Sabine Wils**

**Proposal for a directive**  
**Article 57 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

*Regulatory bodies shall develop common principles and practices for making decisions for which they are empowered under this Directive. The Commission may adopt implementing measures setting out such common principles and practices. Those measures designed to ensure the implementation of this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3).*

*deleted*

Or. en

*Justification*

*Setting decision making principles and practices is already stated in paragraph 1.*

**Amendment 635**  
**Artur Zasada, Bogdan Kazimierz Marcinkiewicz**

**Proposal for a directive**  
**Article 57 – paragraph 7 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

7. Regulatory bodies shall develop common principles and practices for making decisions for which they are empowered under this Directive. The Commission may adopt **implementing measures setting out** such common principles and practices. **Those measures designed to ensure the implementation of**

7. Regulatory bodies shall, **by exchanging information in accordance with paragraph 1**, develop common principles and practices for making decisions for which they are empowered under this Directive. The Commission may adopt **and supplement** such common principles and practices in accordance with **the procedure**

*this Directive under uniform conditions shall be adopted as implementing acts in accordance with Article 63(3).*

*referred to in Article 60.*

Or. pl

**Amendment 636**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Article 57 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Regulatory bodies shall also review decisions and practices of associations of infrastructure managers as referred to in Article 40(1) that implement provisions of this Directive or otherwise facilitate international rail transport.*

*deleted*

Or. en

*Justification*

*Commission and regulatory bodies need to be well informed but do not need to participate in the finding of business decisions.*

**Amendment 637**  
**Sabine Wils**

**Proposal for a directive**  
**Article 57 – paragraph 7 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*Regulatory bodies shall also review decisions and practices of associations of infrastructure managers as referred to in Article 40(1) that implement provisions of this Directive or otherwise facilitate international rail transport.*

*deleted*

*Justification*

*Redundant and unnecessary requirement as RailNetEurope already informs of its activities the EC and the regulatory bodies in a transparent way since many years.*

**Amendment 638**

**Markus Ferber**

**Proposal for a directive**

**Article 57 – paragraph 7 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall, two years after the transposition of this Directive, present a report on the cooperation of national regulatory bodies. On the basis of this report the Commission shall draw up a proposal for the creation of a central European regulatory body for international rail transport services.***

**Amendment 639**

**Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 57 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 57 a (new)***

***Based on the experience of the network of regulatory bodies, the European Parliament asks the European Commission, no later than the end of 2012, to come forward with a legislative proposal for the creation of a European regulatory body that shall act in the case that national regulatory bodies aren't answering and dealing with the***

*complaints.*

Or. en

*Justification*

*The European regulatory body should be the further step after the network of regulatory bodies. The European Regulatory will not eliminate the national regulatory bodies but act only as an appeal body in the case that national regulatory bodies aren't answering and dealing with the complaints.*

**Amendment 640**

**Gilles Pargneaux**

**Proposal for a directive**

**Article 57 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 57a**

***The Commission shall, one year after the transposition of this Directive, submit a report on cooperation among national regulatory bodies in accordance with this Article.***

Or. fr

*Justification*

*No network should be set up for the ultimate purpose of establishing a European regulatory body.*

**Amendment 641**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Article 57 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 57a: European regulatory body***



*In the light of the experience acquired with the network of regulatory bodies, the Commission shall, no later than five years after the enforcement of this Directive, draw up a legislative proposal establishing a European regulatory body with a supervisory and arbitration function in respect of supranational problems and an appeal function in respect of decisions taken by national regulatory bodies.*

Or. fr

#### *Justification*

*Given that it would be desirable in the long run to establish a European regulatory body, this amendment is calling for the Commission to draw up an appropriate proposal based on the experience acquired in the network of national regulatory bodies.*

**Amendment 642**  
**Saïd El Khadraoui**

**Proposal for a directive**  
**Article 57 a (new)**

*Text proposed by the Commission*

*Amendment*

*One year after the transposition of this Directive, the Commission shall submit a report on cooperation by the national regulatory bodies in accordance with this article and shall instruct the European Railway Agency to establish a regulatory body at European level with a remit to supervise freight corridors as laid down in Regulation (EU) No 913/2010 concerning a European rail network for competitive freight, with special reference to monitoring the functioning of the one-stop shop. The European Railway Agency shall organise itself in such a way that this task is performed completely independently of the other activities already assigned to it. On the basis of the experience gained by this regulatory body*

*for freight corridors, the Commission shall, if desirable, submit a legislative proposal for the establishment of a general European regulatory body.*

Or. nl

**Amendment 643**  
**Ismail Ertug, Jörg Leichtfried**

**Proposal for a directive**  
**Article 60 – paragraph 1**

*Text proposed by the Commission*

1. Powers to adopt the delegated acts referred to in *Articles 7(1) second subparagraph, 13(5) second subparagraph, 15(5) second subparagraph, 20 third paragraph, 27(2), 30(3) second subparagraph, 31(5) second subparagraph, 32(1) third subparagraph, 32(3), 35(2), 43(1) and 56(8) third subparagraph* shall be conferred on the Commission for an indeterminate period of time.

*Amendment*

1. Powers to adopt the delegated acts referred to in *Article 20* third paragraph shall be conferred on the Commission for an indeterminate period of time.

Or. de

*Justification*

*Given that the other articles listed by the Commission have been deleted, reference needs to be made only to Article 20(3).*

**Amendment 644**  
**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 63 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

At the request of a *Member State* or on its own initiative the Commission shall, in a specific case, examine the application and enforcement of the provisions of this

*Amendment*

At the request of a *national regulatory body and other competent national authorities* or on its own initiative the Commission shall, in a specific case,

Directive, **and within** two months of receipt of such a request decide in accordance with the procedure referred to in Article 64(2) whether the related measure may continue to be applied. The Commission shall communicate its decision to the European Parliament, the Council and to the Member States.

examine the application and enforcement of the provisions of this Directive. **The national regulatory bodies shall maintain a database accessible to the European Commission of their draft decisions.** **Within** two months of receipt of such a request **the European Commission shall** decide in accordance with the procedure referred to in Article 64(2) whether the related measure may continue to be applied. The Commission shall communicate its decision to the European Parliament, the Council and to the Member States.

Or. en

#### *Justification*

*This is to link better the role between the national regulatory body and the supervisory role of the European Commission.*

#### **Amendment 645** **Gilles Pargneaux**

#### **Proposal for a directive** **Article 63 – paragraph 3**

##### *Text proposed by the Commission*

3. Measures designed to ensure the implementation of the Directive under uniform conditions shall be adopted by the Commission as implementing acts in accordance with the procedure referred to in **Article 64(3)**.

##### *Amendment*

3. Measures **under Articles 10(2), 11(4), 14(2), and 17(5)** designed to ensure the implementation of the Directive under uniform conditions shall be adopted by the Commission as implementing acts in accordance with the procedure referred to in **Article 64(2)**.

Or. fr

#### *Justification*

*The purpose of this amendment is to specify which particular articles can be the subject of Commission implementing acts.*

## Amendment 646

Ramon Tremosa i Balcells

### Proposal for a directive

#### Article 66 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles [...] and Annexes [...] by [...] at the latest. They shall forthwith communicate to the Commission the text of those provisions and a table showing the correlation between those provisions and this Directive.

##### *Amendment*

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles [...] and Annexes [...] by **12 months from the entry into force of this Directive** at the latest. They shall forthwith communicate to the Commission the text of those provisions and a table showing the correlation between those provisions and this Directive.

Or. en

##### *Justification*

*This is a RECAST of 3 Directives that should have already been implemented by Member States thus all the infringement procedures ongoing; 12 months is more than enough.*

## Amendment 647

Inés Ayala Sender

### Proposal for a directive

#### Article 68 – paragraph 2

##### *Text proposed by the Commission*

*Articles [...] and Annexes [...] shall apply from [...].*

##### *Amendment*

**Article 55(1) shall apply as of three years from the date of transposition of this directive.**

Or. es

##### *Justification*

*The establishment of a truly independent body would necessitate, in some instances, new*

*organic structures, new regulatory provisions, the allocation of resources and the hiring of new staff; this would be relatively time-consuming. A more realistic deadline should be set and more time should be given to meet this objective.*

**Amendment 648**

**Antonio Cancian, Carlo Fidanza**

**Proposal for a directive**

**Annex 1 – indent 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***– The parts of passenger station buildings and facilities that are necessary for the provision of rail transport services: common transit areas, platform access facilities, public information systems, any movement control areas;***

Or. it

**Amendment 649**

**Sabine Wils**

**Proposal for a directive**

**Annex 1 – indent 6**

*Text proposed by the Commission*

*Amendment*

***– Access*** way for passengers and goods, including access ***by road***;

***– Railway access*** way for passengers and goods, including ***the related building facilities and pedestrian or road*** access;

Or. en

*Justification*

*Clarification and completion of the definition.*

**Amendment 650**

**Sabine Wils**

**Proposal for a directive**  
**Annex 1 – indent 10**

*Text proposed by the Commission*

– Buildings used by the infrastructure department.

*Amendment*

– Buildings used by the infrastructure department ***to ensure reliability and compliance to its tasks.***

Or. en

*Justification*

*Reference to the buildings used and linked to all the infrastructure department functions is necessary.*

**Amendment 651**  
**Werner Kuhn**

**Proposal for a directive**  
**Annex 1 – indent 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***- goods stations and goods transport centres;***

Or. de

*Justification*

*Goods stations and goods transport centres for which the infrastructure manager is responsible should be included in the list of railway infrastructure.*

**Amendment 652**  
**Antonio Cancian, Carlo Fidanza**

**Proposal for a directive**  
**Annex 1 – indent 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***– A network of freight terminals***

*commensurate with the size of the rail network.*

Or. it

**Amendment 653**  
**Herbert Dorfmann**

**Proposal for a directive**  
**Annex 1 – indent 10 a (new)**

*Text proposed by the Commission*

*Amendment*

*- Service facilities: worksheds, maintenance halls, holding and sorting sidings, subsidiary stations serving termini.*

Or. de

**Amendment 654**  
**Debora Serracchiani, Saïd El Khadraoui**

**Proposal for a directive**  
**Annex 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*Independence and transparency criteria to be fulfilled by the infrastructure manager: (referred to in Article 3(2))*

*(a) Compliance with the independence and transparency criteria shall be monitored by the regulatory body referred to in Article 55. Any applicant shall have the right to appeal to the regulatory body if it believes that those independence requirements are not adequately fulfilled;*

*(b) Statutory and/or contractual independence provisions shall be set in the relationship between the controlling structure or holding and the infrastructure manager, between the*

*infrastructure manager and other companies of the group, or other entities which are controlled by the holding, including in particular the shareholders' meeting of the infrastructure manager;*

*(c) The board members of the holding and/or of other companies of the holding shall not be in the board of the infrastructure manager and shall not exercise any voting rights in the board of the infrastructure manager;*

*(d) The board members of the infrastructure manager and senior staff members dealing with essential functions shall, for a period of three years, be barred from accepting any senior position with the holding or with other entities under its control after they leave the infrastructure manager.*

*(e) The management board, the administrative board, the supervisory board of or bodies legally representing the infrastructure manager shall not be appointed by any controlling structure or holding the infrastructure manager is part of in order to ensure full independence of the infrastructure manager. It shall be appointed and dismissed under the control of the regulatory body referred to in Article 55.*

*(f) The infrastructure manager shall define and adopt its business plan as referred to in Article 8 independently from any controlling structure or holding and from any railway undertaking.*

*(g) The infrastructure manager shall have the necessary organisational capacity to perform its functions independently from any railway undertaking and shall not be allowed to delegate the operation of its functions to bodies or firms which directly or indirectly exercise control, hold any interest in or exercise any right over a railway undertaking.*

*(h) The infrastructure manager shall have*



*its own staff and be located in separate premises or with protected access. Access to the information systems shall be protected. The internal rules or staff contracts shall clearly limit the contacts with the holding and other companies under its control to the official communications connected with the exercise of the essential functions. In particular, commercially sensitive information related to the functions of the infrastructure manager defined in Article 3(2) held by the infrastructure manager shall not be transferred to any railway undertaking.*

*(i) Remuneration systems for the staff of the infrastructure manager shall only be based on the performance of the infrastructure manager.*

Or. en

#### *Justification*

*These requirements are inspired by the requirements developed by the Commission in the Annex V to its 2006 Communication 189. They define under which circumstances essential functions may be exercised by an entity which is part of a larger undertaking.*

**Amendment 655**  
**Werner Kuhn**

**Proposal for a directive**  
**Annex 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Independence and transparency criteria to be fulfilled by the infrastructure manager: (referred to in Article 3(2))***

***(a) Compliance with the independence and transparency criteria shall be monitored by the regulatory body referred to in Article 55. Any applicant shall have the right to appeal to the regulatory body if it believes that those independence***

*requirements are not adequately fulfilled;*

*(b) Statutory and/or contractual independence provisions shall be set in the relationship between the controlling structure or holding and the infrastructure manager, between the infrastructure manager and other companies of the group, or other entities which are controlled by the holding, including in particular the shareholders' meeting of the infrastructure manager;*

*(c) The board members of the holding and/or of other companies of the holding shall not be in the board of the infrastructure manager and shall not exercise any voting rights in the board of the infrastructure manager;*

*(d) The board members of the infrastructure manager and senior staff dealing with essential functions shall, for a period of three years, be barred from accepting any senior position with the holding or with other entities under its control after they leave the infrastructure manager.*

*(e) The management board, the administrative board, the supervisory board of or bodies legally representing the infrastructure manager shall not be appointed by any controlling structure or holding the infrastructure manager is part of in order to ensure full independence of the infrastructure manager. It shall be appointed and dismissed under the control of the regulatory body referred to in Article 55.*

*(f) The infrastructure manager shall define and adopt its business plan as referred to in Article 8 independently from any controlling structure or holding and from any railway undertaking.*

*(g) The infrastructure manager shall have the necessary organisational capacity to perform its functions independently from any railway undertaking and shall not be*

*allowed to delegate the operation of its functions to bodies or firms which directly or indirectly exercise control, hold any interest in or exercise any right over a railway undertaking.*

*(h) The infrastructure manager shall have its own staff and be located in separate premises or with protected access. Access to the information systems shall be protected. The internal rules or staff contracts shall clearly limit the contacts with the holding and other companies under its control to the official communications connected with the exercise of the essential functions. In particular, commercially sensitive information related to the functions of the infrastructure manager defined in Article 3(2) held by the infrastructure manager shall not be transferred to any railway undertaking.*

*(i) Remuneration systems for the staff of the infrastructure manager shall only be based on the performance of the infrastructure manager*

Or. en

#### *Justification*

*These requirements are inspired by the requirements developed by the Commission in the Annex V to its 2006 Communication 189. They define under which circumstances essential functions may be exercised by an entity which is part of a larger undertaking.*

**Amendment 656**  
**Debora Serracchiani**

**Proposal for a directive**  
**Annex 1 – indent 10 a (new)**

*Text proposed by the Commission*

*Amendment*

*– The part of the passenger station building and the facilities functionally necessary for rail operations: common*

*transit areas, platforms and platform roofing, platform access facilities (underpasses, footbridges, escalators, lifts), public information systems (monitors, electronic displays), any movement control areas (control centre, movement controllers' offices, telephone switchboards, etc.).*

Or. it

*Justification*

*The parts of passenger stations that are functionally necessary for rail operations should be included in the list of infrastructure items for which the infrastructure manager is responsible.*

**Amendment 657**

**Sabine Wils**

**Proposal for a directive**

**Annex 2**

*Text proposed by the Commission*

*Amendment*

*List of essential functions referred to in Article 7 :*

*deleted*

- decision making on train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths,*
- decision making on infrastructure charging, including determination and collection of the charges,*

Or. en

*Justification*

*Infrastructure manager functions are described in definitions in Article 3.*

**Amendment 658**

**Juozas Imbrasas**

**Proposal for a directive**  
**Annex 2 – indent 2**

*Text proposed by the Commission*

– decision making on infrastructure charging, including determination **and collection** of the charges,

*Amendment*

– decision making on infrastructure charging, including determination of the charges,

Or. en

**Amendment 659**  
**Herbert Dorfmann**

**Proposal for a directive**  
**Annex 2 – indent 2 a (new)**

*Text proposed by the Commission*

*Amendment*

**- Decisions on equitable and non-discriminatory access to service facilities as provided for in Article 13.**

Or. de

**Amendment 660**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

1. The **minimum** access **package** shall comprise:

1. The **right to** access shall comprise **the following services and railway facilities whose related costs and corresponding charges for their use will be paid to the respective railway enterprises providing them, both infrastructure manager and concerned railway operators:**

Or. en

*Justification*

*Operating a railway service in a safe and reliable way for customers and in an economic viable manner for railway undertakings needs a common right of access to all the services listed in Annexe III irrespective of which railway service provider is in charge of them in each Member State. Charges will be established and paid accordingly to their related use.*

**Amendment 661**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint d a (new)**

*Text proposed by the Commission*

*Amendment*

***(d a) safety and technical inspection of rolling stock***

Or. en

*Justification*

*Granting safety issue assessment is a key factor to allow a train operating before any departure.*

**Amendment 662**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint e**

*Text proposed by the Commission*

*Amendment*

(e) use of electrical supply equipment for traction current, ***where available***;

(e) use of electrical supply equipment for traction current ***and use of traction current when needed with the respective charges to be shown separately***;

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 663**  
**Georges Bach**

**Proposal for a directive**  
**Annex III – point 1 – subpoint f**

*Text proposed by the Commission*

*Amendment*

**(f) refuelling facilities, where available;**                      **deleted**

Or. fr

*Justification*

*Refuelling facilities must not be included in the minimum access package, as they are already offered on a competitive basis on the free market. The services in question must be supplied whenever, failing alternative offerings, they can be regarded as ‘essential facilities’.*

**Amendment 664**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint f**

*Text proposed by the Commission*

*Amendment*

**(f) refuelling facilities, where available;**

**(f) use of refuelling facilities and supply of fuel, when needed with the respective charges to be shown separately;**

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 665**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint f a (new)**

*Text proposed by the Commission*

*Amendment*

***(f a) passenger stations, their buildings, their facilities including a suitable space for unified ticketing and for travel information facilities. The requirement related to ticketing shall not apply in the United Kingdom where a common national ticketing and information system already exists;***

Or. en

*Justification*

*Access to common facilities providing ticketing and information is a key factor for railway undertakings, customers and other transport mode users.*

**Amendment 666  
Sabine Wils**

**Proposal for a directive  
Annex 3 – point 1 – subpoint f b (new)**

*Text proposed by the Commission*

*Amendment*

***(f b) freight terminals***

Or. en

*Justification*

*Unique list in Annexe III.*

**Amendment 667  
Sabine Wils**

**Proposal for a directive  
Annex 3 – point 1 – subpoint f c (new)**



*Text proposed by the Commission*

*Amendment*

***(f c) marshalling yards;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 668**

**Sabine Wils**

**Proposal for a directive**

**Annex 3 – point 1 – subpoint f d (new)**

*Text proposed by the Commission*

*Amendment*

***(f d) train formation facilities;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 669**

**Sabine Wils**

**Proposal for a directive**

**Annex 3 – point 1 – subpoint f e (new)**

*Text proposed by the Commission*

*Amendment*

***(f e) storage sidings;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 670**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint f f (new)**

*Text proposed by the Commission*

*Amendment*

***(f f) maintenance and other technical facilities;***

Or. en

*Justification*

*Unique list in Annexe III.*

**Amendment 671**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint f g (new)**

*Text proposed by the Commission*

*Amendment*

***(f g) port facilities which are linked to rail activities;***

Or. en

*Justification*

*Unique list in Annexe III.*

**Amendment 672**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 1 – subpoint f h (new)**

*Text proposed by the Commission*

*Amendment*

***(f h) relief facilities including towing to clear the running lines;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 673  
Sabine Wils**

**Proposal for a directive  
Annex 3 – point 1 – subpoint f i (new)**

*Text proposed by the Commission*

*Amendment*

***(f i) pre-heating of passenger trains;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 674  
Sabine Wils**

**Proposal for a directive  
Annex 3 – point 1 – subpoint f j (new)**

*Text proposed by the Commission*

*Amendment*

***(f j) tailor-made contracts for control of transport of dangerous goods and /or in assistance in running abnormal trains;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 675**

**Sabine Wils**

**Proposal for a directive**

**Annex 3 – point 1 – subpoint f k (new)**

*Text proposed by the Commission*

*Amendment*

***(f k) access to telecommunication networks;***

Or. en

*Justification*

*Unique list in Annexe III*

**Amendment 676**

**Sabine Wils**

**Proposal for a directive**

**Annex 3 – point 2 – introductory part**

*Text proposed by the Commission*

*Amendment*

***2. Access shall also be given to services facilities and the supply of services in the following facilities :***

***deleted***

***(a) passenger stations, their buildings and other facilities , including ticketing and travel information ;***

***(b) freight terminals;***

***(c) marshalling yards;***

***(d) train formation facilities;***

***(e) storage sidings;***

***(f) maintenance and other technical facilities;***

**(g) port facilities which are linked to rail activities;**

**(h) relief facilities, including towing.**

Or. en

*Justification*

*List of services transposed in a unique list.*

**Amendment 677**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Annex III – point 2 – introductory part**

*Text proposed by the Commission*

2. Access shall also be given to services facilities and **the supply of** services in the following facilities:

*Amendment*

2. Access shall also be given to services facilities and **existing** services in the following facilities:

Or. fr

*Justification*

*The purpose of this amendment is to avoid laying down a requirement to supply facilities and services currently not available everywhere. The reason is that a mandatory provision of this kind could result in investment that might prove to be unprofitable.*

**Amendment 678**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Annex III – point 2 – subpoint a**

*Text proposed by the Commission*

(a) passenger stations, their buildings and other facilities, including **ticketing** and travel information;

*Amendment*

(a) passenger stations, their buildings and other facilities, including **suitable premises for ticket sales** and travel information **services; in addition, the individual models for information and ticket sale**

*services should, at least to some extent, be standardised and/or coordinated in order to make for ease of use by passengers;*

Or. fr

*Justification*

*This amendment is intended to clarify the text and make the point that the individual models for information and sales services should, at least to some extent, be standardised and/or coordinated.*

**Amendment 679**  
**Jörg Leichtfried**

**Proposal for a directive**  
**Annex 3 – point 2 – subpoint a**

*Text proposed by the Commission*

*Amendment*

(a) passenger stations, their buildings and other facilities, ***including ticketing and travel information***;

(a) passenger stations, their buildings and other facilities;

Or. de

*Justification*

*The framework is not sufficient to guarantee fair and barrier-free access. It is not clear what services must be provided. There is no guarantee that passengers will automatically be offered the provider that is 'best' for them and that social fare structures (reduced fares for students and seniors, season tickets, etc.) will be taken into account. Detailed provisions need to be laid down in the 'international passenger transport directive' (announced for 2011 in section 3.2 of the communication).*

**Amendment 680**  
**Peter van Dalen**

**Proposal for a directive**  
**Annex 3 – point 2 – subpoint b**

*Text proposed by the Commission*

*Amendment*

***(b) freight terminals;***

***deleted***

Or. nl

**Amendment 681**

**Carlo Fidanza, Antonio Cancian**

**Proposal for a directive**

**Annex 3 – point 2 – subpoint f**

*Text proposed by the Commission*

*Amendment*

***(f) maintenance and other technical facilities;***

***deleted***

Or. it

*Justification*

*Rolling-stock maintenance is closely linked to rail safety and therefore needs to come under the direct responsibility of railway undertakings, which should have it performed in their own centres or under contracts with rolling-stock suppliers.*

**Amendment 682**

**Peter van Dalen**

**Proposal for a directive**

**Annex 3 – point 2 – subpoint f**

*Text proposed by the Commission*

*Amendment*

***(f) maintenance and other technical facilities;***

***deleted***

Or. nl

**Amendment 683**

**Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Annex 3 – point 2 – subpoint f**

*Text proposed by the Commission*

(f) maintenance and other technical facilities;

*Amendment*

(f) maintenance ***with the exception of heavy maintenance in facilities exclusively dedicated to specific types of high-speed rolling stock for passenger services*** and other technical facilities;

Or. en

*Justification*

*This AM wants to exclude heavy maintenance in facilities exclusively dedicated to specific types of high-speed rolling stock for passenger services (For example: Siemens -Alstom material) which are different and require specific training and specific equipment.*

**Amendment 684**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Annex III – point 2 – subpoint f**

*Text proposed by the Commission*

(f) maintenance ***and other technical facilities***;

*Amendment*

(f) ***light*** maintenance, ***including repairs, to enable commercial service to continue***;

Or. fr

*Justification*

*The purpose of this amendment is to stipulate that light maintenance enabling commercial service to continue is the only type of basic maintenance service that has to be made accessible to all railway undertakings on a non-discriminatory basis.*

**Amendment 685**  
**Peter van Dalen**

**Proposal for a directive**  
**Annex 3 – point 2 – subpoint g**



*Text proposed by the Commission*

*Amendment*

**(g) port facilities which are linked to rail activities;** **deleted**

Or. nl

**Amendment 686**

**Jörg Leichtfried**

**Proposal for a directive  
Annex 3 – point 2 – subpoint g**

*Text proposed by the Commission*

*Amendment*

**(g) port facilities which are linked to rail activities;** **(g) track access to ports;**

Or. de

*Justification*

*The wording chosen here does not correspond to Article 10. This creates demarcation problems, since the term 'port facilities' is not sufficiently defined. 'Port facilities' includes all port equipment such as cranes, quays, etc. The port itself should continue to take decisions on its own with regard to the organisation of port facilities, with a view to the overall optimisation of the port.*

**Amendment 687**

**Peter van Dalen**

**Proposal for a directive  
Annex 3 – point 2 – subpoint h**

*Text proposed by the Commission*

*Amendment*

**(h) relief facilities, including towing.** **deleted**

Or. nl

**Amendment 688**  
**Georges Bach**

**Proposal for a directive**  
**Annex III – point 2 – subpoint h a (new)**

*Text proposed by the Commission*

*Amendment*

***(ha) refuelling facilities, where available;***

Or. fr

*Justification*

*Refuelling facilities must not be included in the minimum access package, as they are already offered on a competitive basis on the free market. The services in question must be supplied whenever, failing alternative offerings, they can be regarded as ‘essential facilities’.*

**Amendment 689**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Annex III – point 2 – subpoint h a (new)**

*Text proposed by the Commission*

*Amendment*

***(ha) refuelling facilities;***

Or. fr

*Justification*

*The purpose of this amendment is to include refuelling facilities among the facilities which must be made accessible to railway undertakings on a non-discriminatory basis.*

**Amendment 690**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 3 – point 3**

*Text proposed by the Commission*

*Amendment*

**3. Additional services may comprise:** *deleted*

**(a) traction current , charges for which shall be shown on the invoices separately from charges for using the electrical supply equipment ;**

**(b) pre-heating of passenger trains;**

**(c) supply of fuel, charges for which shall be shown on the invoices separately from charges for using refuelling facilities ;**

**(d) tailor-made contracts for:**

- **control of transport of dangerous goods,**
- **assistance in running abnormal trains.**

Or. en

*Justification*

*Services transposed in a unique list.*

#### **Amendment 691**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Annex III – point 3 – subpoint a**

*Text proposed by the Commission*

*Amendment*

**(a) traction current, *charges for which shall be shown on the invoices separately* from charges for using the electrical supply equipment ;**

**(a) traction current, *if a railway undertaking has chosen to buy the traction current for its trains from the infrastructure manager rather than going directly to one or more suppliers on the electricity market. The infrastructure manager's invoices shall contain separate entries in this case for the traction current supplied and in every case for charges for using the electrical supply equipment, electricity losses in the infrastructure manager's facilities, and charges for connection to the energy transmission or***

*distribution network;*

Or. fr

*Justification*

*As the energy market has been opened up to competition, this amendment aims to give railway undertakings a free choice where their electricity suppliers are concerned. It also calls explicitly for transparent invoices.*

**Amendment 692**

**Sabine Wils**

**Proposal for a directive**

**Annex 3 – point 4**

*Text proposed by the Commission*

*Amendment*

**4. Ancillary services may comprise:**

**deleted**

**(a) access to telecommunication networks;**

**(b) provision of supplementary information;**

**(c) technical inspection of rolling stock.**

Or. en

*Justification*

*Services transposed in a unique list.*

**Amendment 693**

**Sabine Wils**

**Proposal for a directive**

**Annex 6 – point 1**

*Text proposed by the Commission*

*Amendment*

1. A section setting out the nature of the infrastructure which is available to railway undertakings and the conditions of access

1. A section setting out the nature of the infrastructure which is available to railway undertakings and the conditions of access

to it. The information in this section shall be consistent with or refer to the rail infrastructure registers to be published in accordance with Article 35 of Directive 2008/57/EC.

to it ***including the technical and safety rules governing the access of railway vehicles as regulated by directives 2008/57/EC and 2004/49/EC***. The information in this section shall be consistent with or refer to the rail infrastructure registers to be published in accordance with Article 35 of Directive 2008/57/EC.

Or. en

### *Justification*

*Safety rules are the first and key issue to be provided in the network statement that must at least contain a clear reference to where this information can be found.*

### **Amendment 694**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

#### **Proposal for a directive Annex VI – point 2**

##### *Text proposed by the Commission*

2. A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges as well as other relevant information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or *foreseen* in the next five years.

##### *Amendment*

2. A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges as well as other relevant information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges . It shall contain information on changes in charges already decided upon or *to be proposed* in the next five years . ***It must specify the financial compensation arrangements to be applied in the event of delay, a deterioration in quality, or withdrawal of allocated train paths.***

Or. fr

### *Justification*

*This amendment is intended to make for greater transparency as regards the financial compensation to be offered in the event of delay, a deterioration in quality, or withdrawal of allocated train paths.*

#### **Amendment 695 Ramon Tremosa i Balcells**

#### **Proposal for a directive Annex 6 – point 2**

##### *Text proposed by the Commission*

2. A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges **as well as other** relevant information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years.

##### *Amendment*

2. A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges. **The infrastructure charges shall be indicated per kilometre per market segment. Other** relevant information on access applying to the services listed in Annex III which are provided by only one supplier **shall also be provided**. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31(4) and (5) to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years.

Or. en

### *Justification*

*Providing the information on the infrastructure charge per kilometre per market segment would help applicants to calculate an estimation of their costs for starting services.*

#### **Amendment 696 Inés Ayala Sender**

#### **Proposal for a directive Annex 6 – point 2**

*Text proposed by the Commission*

2. A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges **as well as other** relevant information on access applying to the services listed in Annex III which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years.

*Amendment*

2. A section on charging principles and tariffs. This shall contain appropriate details of the charging scheme as well as sufficient information on charges. **The infrastructure charges shall be indicated per kilometre per market segment. Other** relevant information on access applying to the services listed in Annex III which are provided by only one supplier **shall also be provided**. It shall detail the methodology, rules and, where applicable, scales used for the application of Articles 31 to 36, as regards both costs and charges. It shall contain information on changes in charges already decided upon or foreseen in the next five years.

Or. en

*Justification*

*Providing the information on the infrastructure charge per kilometre per market segment would help applicants to calculate an estimation of their costs for starting services.*

**Amendment 697**

**Juozas Imbrasas**

**Proposal for a directive**

**Annex 6 – point 7 – subparagraph 1 (new)**

*Text proposed by the Commission*

*Amendment*

***If the conditions of competition with third countries so require, respective Member States may adopt different rules for charges on those networks where the track gauge is different from that of the main rail network within the Union. Such rules may be published within shorter time limits than laid down in this Directive and which are compatible with those in the relevant third countries.***

*Justification*

*This addition is necessary to keep the competitiveness of EU networks and companies with those of third countries sharing a specific non-standard gauge (1520mm). Infrastructure managers in these third countries do not publish charges in advance (and their charges can be amended very flexibly depending on market conditions).*

**Amendment 698**

**Ole Christensen**

**Proposal for a directive**

**Annex 7 – point 3 – subpoint e**

*Text proposed by the Commission*

e) safety levels, and

*Amendment*

e) safety levels, ***including a good knowledge of English by train drivers and other crew members involved in cross-border transport,*** and

Or. da

**Amendment 699**

**Ole Christensen**

**Proposal for a directive**

**Annex 7 – point 9**

*Text proposed by the Commission*

9. rules for dealing with major disruptions of operations ***and*** emergency situations, ***including a minimum service level in case of strikes, if any, and early termination of the contractual agreement,*** and information of users;

*Amendment*

9. rules for dealing with major disruptions of operations, emergency situations and information of users;

Or. da



**Amendment 700**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Annex 7 – point 9**

*Text proposed by the Commission*

9. rules for dealing with major disruptions of operations and emergency situations, ***including a minimum service level in case of strikes, if any, and early termination of the contractual agreement, and information of users;***

*Amendment*

9. rules for dealing with major disruptions of operations and emergency situations. ***These shall also include the timely information of users.***

In case of actions as a ***result of social conflicts e.g. strikes, there should be information to users at least 24 hours before these actions take place, also indicating alternative possibilities for their mobility needs.***

Or. en

**Amendment 701**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 7 – point 9**

*Text proposed by the Commission*

9. rules for dealing with major disruptions of operations and emergency situations, ***including a minimum service level in case of strikes, if any,*** and early termination of the contractual agreement, and information of users;

*Amendment*

9. rules for dealing with major disruptions of operations and emergency situations and early termination of the contractual agreement, and information of users;

Or. en

*Justification*

*Strike is one of the fundamental rights where rules or social party agreements have been set autonomously in a different way in each Member State therefore a particular specific provision cannot be included in a common EU legislative text.*

**Amendment 702**  
**Michael Cramer, Isabelle Durant**

**Proposal for a directive**  
**Annex 8 – point 1 – subpoint a**

*Text proposed by the Commission*

(a) Network-wide overhead costs,  
*including salaries and pensions;*

*Amendment*

(a) Network-wide overhead costs,  
*excluding labour costs;*

Or. en

*Justification*

*Labour costs include the 'unit cost' per worker and is also adaptable to different calculation rules in member states.*

**Amendment 703**  
**Georges Bach**

**Proposal for a directive**  
**Annex 8 – point 1 – subpoint a**

*Text proposed by the Commission*

(a) Network-wide overhead costs,  
*including salaries and pensions;*

*Amendment*

(a) Network-wide overhead costs ;

Or. en

**Amendment 704**  
**Sabine Wils**

**Proposal for a directive**  
**Annex 8 – point 1 – subpoint a**

*Text proposed by the Commission*

(a) Network-wide overhead costs,  
*including salaries and pensions;*

*Amendment*

(a) Network-wide overhead costs;

*Justification*

*Only the general over-head costs are excluded from the direct costs as referred in Article 31 (3), while salaries and pensions of workers concerned in the infrastructure manager activities have to be taken into account and therefore included in the direct costs calculation.*

**Amendment 705**

**Georges Bach**

**Proposal for a directive**

**Annex 8 – point 1 – subpoint f**

*Text proposed by the Commission*

*Amendment*

**(f) Social services, schools, kindergartens, restaurants;**                      **deleted**

Or. en

**Amendment 706**

**Sabine Wils**

**Proposal for a directive**

**Annex 8 – point 1 – subpoint f**

*Text proposed by the Commission*

*Amendment*

**(f) Social services, schools, kindergartens, restaurants;**                      **deleted**

Or. en

*Justification*

*Social costs related to workers involved in the infrastructure manager activities have to be included in the calculation of direct costs as they are part of direct or indirect wage according to the different labour legislations or contractual agreements stipulated in each Member state.*

**Amendment 707**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Annex VIII – point 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The infrastructure manager must submit the direct cost calculation to the regulatory body for an opinion, specifying the cost parameters and factors.***

Or. fr

*Justification*

*This amendment ensures that direct cost calculations will be checked by regulatory bodies.*

**Amendment 708**

**Roberts Zile**

**Proposal for a directive**

**Annex 8 – point 3**

*Text proposed by the Commission*

*Amendment*

***3. The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1), whereby each of the services listed under a single one of the following points shall belong to different market segments:***

***3. In case the infrastructure manager levies mark-ups, it shall develop a list of market segments to which the regulatory body shall give its prior approval.***

***Mark-ups shall be such that traffic volumes in individual segments develop no worse than traffic volumes on competing markets.***

***The pairs to be considered by infrastructure managers when they define a list of market segments with a view to introducing mark-ups in the charging system according to Article 31(3) include at least the following ones:***

*Justification*

*This amendment defines a market-based criterion, stating that the mark-ups should be such that traffic volumes develop no worse than other competing markets of other transport modes. This clarification would help to indicate ability of railway undertakings to pay mark-ups and would support the competitiveness of the rail sector.*

**Amendment 709****Ramon Tremosa i Balcells****Proposal for a directive****Annex 8 – point 3 – introductory part***Text proposed by the Commission*

3. The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1), **whereby each of the services listed under a single one of the following points shall belong to different market segments:**

*Amendment*

**3. The infrastructure manager shall define homogeneous market segments and corresponding mark-ups in the sense of Article 32(1), on the basis of a market study and after consultation of the applicants.**

The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1). **In case the infrastructure manager levies mark-ups, it shall develop a list of market segments to which the regulatory body shall give its prior approval.**

**Mark-ups shall be such that traffic volumes in individual segments develop no worse than traffic volumes on competing markets.**

**Amendment 710****Sabine Wils**

**Proposal for a directive**  
**Annex 8 – point 3 – introductory part**

*Text proposed by the Commission*

3. The infrastructure manager **shall demonstrate to the regulatory body the ability of a train service to pay** mark-ups according to Article 32(1), **whereby each of the services listed under a single one of the following points shall belong to different** market segments:

*Amendment*

3. The infrastructure manager **may define homogeneous market segments and corresponding** mark-ups according to Article 32(1), **where applicable on the basis of a market study and after consultation of the applicants in order to improve the traffic volumes in each individual segment. The railway market segments to be taken into account using of the following indicative criteria are:**

Or. en

*Justification*

*Procedure to be followed by the infrastructure manager according to the authorisation of the Member State to set up mark-ups on individual railway market segments.*

**Amendment 711**  
**Peter van Dalen**

**Proposal for a directive**  
**Annex 8 – point 3 – introductory part**

*Text proposed by the Commission*

3. **The infrastructure manager shall demonstrate to** the regulatory body the ability of a train service to pay mark-ups according to Article 32(1), whereby each of the services listed under a single one of the following points shall belong to different market segments:

*Amendment*

3. The regulatory body **shall ensure** the ability of a train service to pay mark-ups according to Article 32(1), whereby each of the services listed under a single one of the following points shall belong to different market segments:

Or. nl

**Amendment 712**  
**Debora Serracchiani**

**Proposal for a directive**  
**Annex 8 – point 3**

*Text proposed by the Commission*

3. The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1), **whereby each of the services listed under a single one of the following points shall belong to different market segments:**

- (a) Passenger vs freight services;**
- (b) Trains carrying dangerous goods vs other freight trains;**
- (c) Domestic vs international services;**
- (d) Combined transport vs direct trains;**
- (e) Urban or regional vs interurban passenger services;**
- (f) Block trains vs single wagon load trains;**
- (g) Regular vs occasional train services.**

*Amendment*

**3. The infrastructure manager shall define homogeneous market segments and corresponding mark-ups in the sense of Article 32(1), on the basis of a market study and after consultation of the applicants.**

The infrastructure manager shall demonstrate to the regulatory body the ability of a train service to pay mark-ups according to Article 32(1). **In case the infrastructure manager levies mark-ups, it shall develop a list of market segments to which the regulatory body shall give its prior approval.**

Or. en

**Amendment 713**  
**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**  
**Annex VIII – point 3 – subparagraph 1 (new)**

*Text proposed by the Commission*

*Amendment*

**Supplements shall be such that they will**

***not significantly affect rail transport on the segment concerned compared with other modes of transport.***

Or. fr

*Justification*

*The supplements charged must not undermine the competitiveness of rail transport compared with other modes of transport.*

**Amendment 714**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Annex VIII – point 3 – subpoint g a (new)**

*Text proposed by the Commission*

*Amendment*

***(ga) services covered by public service contracts vs open-access services.***

Or. fr

*Justification*

*This amendment seeks to introduce a new type of market segment comprising – on the one hand – services covered by public service contracts and – on the other – open-access services.*

**Amendment 715**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

**Proposal for a directive**

**Annex VIII – point 3 – subpoint g b (new)**

*Text proposed by the Commission*

*Amendment*

***(gb) high-speed trains vs conventional trains.***

Or. fr



## Justification

*This amendment seeks to introduce a new type of market segment comprising – on the one hand – high-speed trains and – on the other – conventional trains.*

### **Amendment 716**

**Juozas Imbrasas**

#### **Proposal for a directive**

#### **Annex 8 – point 4 – subpoint b**

##### *Text proposed by the Commission*

(b) The infrastructure manager shall communicate to the railway undertakings the timetable, on the basis of which delays will be calculated, at least five days before the train run;

##### *Amendment*

(b) The infrastructure manager shall communicate to the railway undertakings the timetable, on the basis of which delays will be calculated, at least five days before the train run. ***Member States may adopt different deadlines for networks technologically separated from the main EU railway network and to allow coordination with third countries railway networks.***

Or. en

### **Amendment 717**

**Dominique Riquet, Dominique Vlasto, Michel Dantin**

#### **Proposal for a directive**

#### **Annexe VIII – point 5 – Table 1**

##### *Text proposed by the Commission*

For freight transport:

Year	Discount
2015	<b>5%</b>
2016	<b>5%</b>
2017	<b>5%</b>
2018	<b>5%</b>
2019	<b>5%</b>

##### *Amendment*

For freight transport:

Year	Discount
2015	<b>10%</b>
2016	<b>10%</b>
2017	<b>10%</b>
2018	<b>7.5%</b>
2019	<b>7%</b>

2020	5%	2020	6.5%
2021	4%	2021	5%
2022	3%	2022	3.5%
2023	2%	2023	2.5%
2024	1%	2024	2%

Or. fr

*Justification*

*The temporary reduction for ETCS-equipped trains has to provide a real incentive for railway undertakings to use this technology. The discounts should therefore be increased.*

**Amendment 718**

**Artur Zasada, Bogdan Kazimierz Marcinkiewicz**

**Proposal for a directive**

**Annex 8 – point 5**

*Text proposed by the Commission*

*Amendment*

***5. The temporary reduction of the infrastructure charge for ETCS equipped trains, as referred to in Article 32(3) shall be established as follows:***

***deleted***

***For freight transport:***

<b><i>Year</i></b>	<b><i>Discount</i></b>
<b><i>2015</i></b>	<b><i>5%</i></b>
<b><i>2016</i></b>	<b><i>5%</i></b>
<b><i>2017</i></b>	<b><i>5%</i></b>
<b><i>2018</i></b>	<b><i>5%</i></b>
<b><i>2019</i></b>	<b><i>5%</i></b>
<b><i>2020</i></b>	<b><i>5%</i></b>
<b><i>2021</i></b>	<b><i>4%</i></b>

<b>2022</b>	<b>3%</b>
<b>2023</b>	<b>2%</b>
<b>2024</b>	<b>1%</b>

***For passenger transport:***

<b><i>Year</i></b>	<b><i>Discount</i></b>
<b>2020</b>	<b>5%</b>
<b>2021</b>	<b>5%</b>
<b>2022</b>	<b>5%</b>
<b>2023</b>	<b>5%</b>
<b>2024</b>	<b>5%</b>

Or. pl

***Justification***

*Reductions should promote the introduction of full interoperability (in terms of rolling stock and infrastructure). Granting large reductions for ETCS equipped trains may mean that the manager will pass on the loss to other operators whose rolling stock is not equipped with ETCS, which would be contrary to the objective of the proposed provision. The amount of the reduction should depend on several factors (the size and parameters of the technical network, including the length of the ERTMS line, and any renovation plans).*

**Amendment 719**  
**Silvia-Adriana Țicău**

**Proposal for a directive**  
**Annex 8 – point 5 – Table 1**

<i>Text proposed by the Commission</i>		<i>Amendment</i>	
For freight transport:		For freight transport:	
<b>Year</b>	<b>Reduction</b>	<b>Year</b>	<b>Reduction</b>
<b>2015</b>	<b>5 %</b>		
<b>2016</b>	<b>5 %</b>		
<b>2017</b>	<b>5 %</b>		
<b>2018</b>	<b>5 %</b>		
<b>2019</b>	<b>5 %</b>		

2020	5 %	2020	3 %
2021	4 %	2021	3 %
2022	3 %	2022	3 %
2023	2 %	2023	3 %
2024	1 %	2024	3 %

Or. ro

*Justification*

*Aims to promote the fitting-out of trains with the European Train Control System (ETCS), and to afford railway transport operators sufficient time to plan and realise the requisite investments.*

**Amendment 720**  
**Silvia-Adriana Țicău**

**Proposal for a directive**  
**Annex 8 – point 5 – Table 2**

*Text proposed by the Commission*

*Amendment*

For passenger transport:

For passenger transport:

Year	Reduction	Year	Reduction
2020	5 %	2020	3 %
2021	5 %	2021	3 %
2022	5 %	2022	3 %
2023	5 %	2023	3 %
2024	5 %	2024	3 %

Or. ro

*Justification*

*Aims to promote the fitting-out of trains with the European Train Control System (ETCS), and to afford railway transport operators sufficient time to plan and realise the requisite investments*

**Amendment 721**  
**Juozas Imbrasas**

**Proposal for a directive  
Annex 9 – point 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***5 a. Notwithstanding the above, in networks, connecting Member States and third countries, and whose track gauge is different from that of the main rail network within the Union, the scheduling and allocation process may be done under the specific procedures and terms which apply on this specific network.***

Or. en

**Amendment 722  
Sabine Wils**

**Proposal for a directive  
Annex 10**

*Text proposed by the Commission*

*Amendment*

**ANNEX X**

*deleted*

**Regulatory accounts to be supplied to the  
regulatory body**

***(referred to in Article 56(8))***

***The regulatory accounts to be provided to the regulatory body according to Article 56(8) shall contain at least the following elements:***

**1. Account separation**

***The regulatory accounts, to be supplied by infrastructure managers and all undertakings or other entities performing or integrating different categories of rail transport or receiving public funds, shall:***

***(a) include separate profit and loss accounts and balance sheets for freight, passenger and infrastructure management activities;***

*(b) give detailed information on individual sources and uses of public funds and other forms of compensation in a transparent and detailed manner, including a detailed review of the businesses' cash flows in order to determine in what way these public funds and other forms of compensation have been used;*

*(c) include cost and profit categories making it possible to determine whether cross-subsidies between these different activities occurred, according to the requirements of the regulatory body;*

*(d) contain a sufficient level of detail as deemed necessary and proportionate by the regulatory body;*

*(e) be accompanied by a document which sets out the methodology used to allocate costs between different activities.*

*Where the regulated firm is part of a group structure, regulatory accounts shall be prepared for the group as a whole, and for each subsidiary. In addition, full details of inter-company payments shall be included in the regulatory accounts in order to ensure that public funds have been appropriately used.*

## **2. Monitoring of track access charges**

*Regulatory accounts, to be supplied by infrastructure managers to the regulatory bodies, shall*

*(a) set out different cost categories, in particular providing sufficient information on marginal/direct costs of the different services or groups of services so that infrastructure charges can be monitored;*

*(b) provide sufficient information to allow monitoring of the individual charges paid for services (or groups of services); if required by the regulatory body, this information shall contain data on volumes of individual services, prices for*

*individual services and total revenues for individual services paid by internal and external customers;*

*(c) state costs and revenues for individual services (or groups of services) using the relevant cost methodology, as required by the regulatory body, to identify potentially anti-competitive pricing (cross-subsidies, predatory pricing and excessive pricing).*

### **3. Indication of financial performance**

*Regulatory accounts, to be supplied by infrastructure managers to the regulatory bodies, shall include:*

*(a) a statement of financial performance;*

*(b) a summary expenditure statement;*

*(c) a maintenance expenditure statement;*

*(d) an operating expenditure statement;*

*(e) an income statement;*

*(f) supporting notes that amplify and explain the statements where appropriate.*

### **4. Other issues**

*In the case of infrastructure managers, the regulatory accounts shall be audited by an independent auditor. The auditor's report shall be annexed to the regulatory accounts.*

*The regulatory accounts shall contain profit and loss accounts and balance sheets and shall be reconciled to the company's statutory accounts and explanations shall be given for all reconciling items.*

Or. en

### *Justification*

*In coherence with the deletion of article 56 (8) out of scope of a regulatory body.*

**Amendment 723**  
**Izaskun Bilbao Barandica**

**Proposal for a directive**  
**Annex 10 – point 1 – point a**

*Text proposed by the Commission*

a) include separate profit and loss accounts and balance sheets for freight, passenger and infrastructure management activities;

*Amendment*

a) include separate profit and loss accounts and balance sheets for freight, passenger and infrastructure management activities, ***which must be linked to indicators and the objectives achieved;***

Or. es

*Justification*

*Introducing links to objectives and indicators would enable more effective valuation of profits and losses.*

**Amendment 724**  
**Debora Serracchiani**

**Proposal for a directive**  
**Annex 10 – point 1 – point c**

*Text proposed by the Commission*

(c) include cost and profit categories making it possible to determine whether cross-subsidies between these different activities occurred, according to the requirements of the regulatory body;

*Amendment*

(c) include cost and profit categories making it possible to determine whether cross-subsidies between these different activities occurred, according to the requirements of ***Article 6 and as deemed necessary and proportionate*** by the regulatory body;

Or. en