



2023/0271(COD)

17.11.2023

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DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council
Regulation on the use of railways infrastructure capacity in the single European
railways area, amending Directive 2012/34/EU and repealing Regulation (EU)
No 913/2010
(COM(2023)443 – C9-0304/2023 – 2023/0271(COD))

Committee on Transport and Tourism

Rapporteur: Tilly Metz

Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

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

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council
Regulation on the use of railways infrastructure capacity in the single European
railways area, amending Directive 2012/34/EU and repealing Regulation (EU) No
913/2010**

(COM(2023)443 – C9-0304/2023 – 2023/0271(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)443),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0304/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 25 October 2023¹,
 - having regard to the opinion of the Committee of the Regions of [...]²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A9-0000/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ [OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal].

² [OJ C 0, 0.0.0000, p. 0. / Not yet published in the Official Journal].

Amendment 1

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) The Communication on Sustainable and Smart Mobility Strategy¹⁵ sets out milestones to show the Union transport system's path towards achieving the objectives of a sustainable, smart and resilient mobility. It envisages that rail freight traffic should increase by 50% by 2030 and double by 2050; traffic on high-speed rail should double by 2030 and triple by 2050 and scheduled collective travel under 500 km should be carbon-neutral by 2030 within the Union. To achieve these goals, rail transport must become more attractive in terms of affordability, reliability, and services better adapted to the needs of travellers and freight shippers.

¹⁵ Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions 'Sustainable and Smart Mobility Strategy – putting European transport on track for the future', COM(2020) 789 final of 9 December 2020.

Amendment

(2) The Communication on Sustainable and Smart Mobility Strategy¹⁵ sets out milestones to show the Union transport system's path towards achieving the objectives of a sustainable, smart and resilient mobility. It envisages that rail freight traffic should increase by 50% by 2030 and double by 2050; traffic on high-speed rail should double by 2030 and triple by 2050 and scheduled collective travel under 500 km should be carbon-neutral by 2030 within the Union. To achieve these goals, rail transport must become more attractive in terms of affordability, reliability **and accessibility**, and services **must be** better adapted to the needs of travellers and freight shippers.

¹⁵ Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions 'Sustainable and Smart Mobility Strategy – putting European transport on track for the future', COM(2020) 789 final of 9 December 2020.

Or. en

Amendment 2

Proposal for a regulation Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) EU's decarbonisation and modal shift targets will not be able to be addressed with this rail capacity

regulation alone. Both Member States and the Commission should continue to work on numerous other elements that can help to further increase both transport and train capacity, such as the bundling of train paths, speed harmonisation, integrated regular timetables, efficient passenger changeover, the use of longer trains, the use of reciprocal commercial conditions for capacity-friendly behaviour (both infrastructure managers and applicants), the roll-out of harmonised ERTMS across Europe as well as automated trains operation (ATO).

Or. en

Justification

It is anticipated that this proposal if fully implemented will increase the capacity on the European rail network by a maximal 4%. To achieve the EU's policy goals of increasing rail freight traffic by 50% in 2030 and doubling it by 2050 and to achieve the necessary climate targets the EU has committed to, Member States and the Commission will have to implement numerous other elements that can help to further increase both rail infrastructure and rail transport capacity.

Amendment 3

Proposal for a regulation Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) Tackling the multi-modal competitive aspect between different transport modes is important to facilitate a substantial modal shift and reach the targets set in the Sustainable and Smart Mobility Strategy. In order to guarantee a fair level playing field between the transport modes, framework conditions need to be levelled out. This would incentivise people and companies to make transport choices in line with the Union's sustainable transport vision. With an increased demand for rail capacity by

both passenger and freight services, investments will also be needed to implement the capacity enhancing measures described above.

Or. en

Justification

To achieve EU's policy goals of increasing rail freight traffic by 50% in 2030 and doubling it by 2050 and to achieve the climate targets the EU has committed to, measures beyond rail infrastructure and transport capacity have to be implemented. Multi-modal competitive aspects between transport modes have to be addressed in order to guarantee a fair level playing field between modes. With an increased demand for rail capacity, investments will be needed to enhance capacity.

Amendment 4

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) The rules and procedures on the management of rail infrastructure capacity should reflect better the needs of all rail market segments. They should in particular take into account the necessity of long-term stability of available capacity for passenger services and of short-term flexibility for freight traffic to respond to market demand. Therefore, the process of managing capacity should no longer have a predominantly annual focus, but be arranged in three subsequent phases of strategic capacity planning; rail service scheduling and capacity allocation; and adaptation and rescheduling of capacity. The introduction of better defined and structured phases that provide for the possibility of long-term planning and short-term adaptation in capacity management, would particularly benefit services that are less easy to plan in advance or are more complex to arrange, such as freight trains and cross-border passenger trains.

Amendment

(7) The rules and procedures on the management of rail infrastructure capacity should reflect better the needs of all rail market segments. They should in particular take into account the necessity of long-term stability of available capacity for passenger services and of short-term flexibility for freight traffic to respond to market demand. Therefore, the process of managing capacity should no longer have a predominantly annual focus, but be arranged in three subsequent phases of strategic capacity planning; rail service scheduling and capacity allocation; and adaptation and rescheduling of capacity. The introduction of better defined and structured phases that provide for the possibility of long-term planning and short-term adaptation in capacity management, would particularly benefit services that are less easy to plan in advance or are more complex to arrange, such as freight trains and cross-border passenger trains, ***including night trains.***

Amendment 5

Proposal for a regulation

Recital 8

Text proposed by the Commission

(8) An increasing portion of the Union rail network is either congested or close to congested and cannot accommodate the needs for rail infrastructure capacity of all applicants and support further growth in the volume of rail transport. Infrastructure development and digitalisation, in compliance with the technical specification for interoperability developed under Directive (EU) 2016/797 of the European Parliament and of the Council, in particular the European Rail Traffic Management System ('ERTMS'), is expected to result in an increase of available capacity in the medium to long term. Nevertheless, infrastructure managers will be required to assign priorities for the use of congested sections. Without prejudice to general principles on priority set out by Member States in the framework for the allocation of infrastructure capacity, infrastructure managers should take decisions on priorities using transparent and harmonised methodologies which clarify how social, economic and environmental factors have been taken into account and affect their decision.

Amendment

(8) An increasing portion of the Union rail network is either congested or close to congested and cannot accommodate the needs for rail infrastructure capacity of all applicants and support further growth in the volume of rail transport. Infrastructure development and digitalisation, in compliance with the technical specification for interoperability developed under Directive (EU) 2016/797 of the European Parliament and of the Council, in particular the European Rail Traffic Management System ('ERTMS'), is expected to result in an increase of available capacity in the medium to long term. Nevertheless, infrastructure managers will be required to assign priorities for the use of congested sections. Without prejudice to general principles on priority set out by Member States in the framework for the allocation of infrastructure capacity, infrastructure managers should take decisions on priorities using transparent and harmonised methodologies which clarify how social, economic and environmental factors have been taken into account and affect their decision. ***It is necessary for those socio-economic and environmental criteria to be studied in more detail. For that purpose, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of setting criteria and standardised methodologies.***

Amendment 6

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) When allocating capacity, infrastructure managers should adhere to the strategic plans for the supply of capacity and at the same time ensure that capacity is allocated in accordance with market demand in a fair and non-discriminatory way. For that purpose, some capacity requests may be refused and the plan for the supply of capacity must be regularly updated to reflect the actual demand.

Amendment

(11) When allocating capacity, infrastructure managers should adhere to the strategic plans for the supply of capacity and at the same time ensure that capacity is allocated in accordance with market demand in a fair and non-discriminatory way. For that purpose, some capacity requests may be ***erved with alternative capacity or in the last resort*** refused and the plan for the supply of capacity must be regularly updated to reflect the actual demand.

Or. en

Justification

Infrastructure managers should ensure utmost efforts to provide alternative capacity outside of the capacity plan. This allows for flexibility and the possibility to develop paths that reflect end user needs.

Amendment 7

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Different rail market segments have different abilities to anticipate their rail infrastructure capacity needs. Some freight service providers, in particular, may not be able to identify their capacity needs in time to be included in the working timetable, that is in the annual plan for train and rolling-stock movement, and may not fit in its annual schedule. Therefore, infrastructure managers should be able to offer capacity of sufficient quality and

Amendment

(12) Different rail market segments have different abilities to anticipate their rail infrastructure capacity needs. Some freight service providers, in particular, may not be able to identify their capacity needs in time to be included in the working timetable, that is in the annual plan for train and rolling-stock movement, and may not fit in its annual schedule. Therefore, infrastructure managers should be able to offer capacity of sufficient quality and

quantity also for rail services that have unstable demand, are organised on relatively short notice, include more than a single train run, and may run repeatedly for a period of time that may not coincide with the duration of the working timetable period.

quantity also for rail services that have unstable demand, are organised on relatively short notice, include more than a single train run, and may run repeatedly for a period of time that may not coincide with the duration of the working timetable period. ***This type of capacity offer could also be offered in a package of minimum pre-calculated unreserved train paths that can then be allocated at short notice.***

Or. en

Amendment 8

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) A significant share of rail freight transport is long-distance and requires cross-border coordination of infrastructure managers. The policy goal of increasing rail traffic also relies on growing cross-border passenger services. To facilitate and promote an increasing cross-border traffic in the single European railway area, it is necessary to ensure greater consistency and harmonisation of the rules and procedures on the management of rail infrastructure capacity. Accordingly, the role of the European Network of Infrastructure Manager should be strengthened with a view to entrusting it with the development of guidelines for the harmonised implementation of this Regulation on procedures and methodologies for the management of rail infrastructure capacity and with the active coordination of cross-border capacity and traffic. In particular, the European Network of Infrastructure Managers should develop European frameworks for capacity management, for the coordination of cross-border traffic management, disruption management and crisis management, and for performance

Amendment

(14) A significant share of rail freight transport is long-distance and requires cross-border coordination of infrastructure managers. The policy goal of increasing rail traffic also relies on growing cross-border passenger services. To facilitate and promote an increasing cross-border traffic in the single European railway area, it is necessary to ensure greater consistency and harmonisation of the rules and procedures on the management of rail infrastructure capacity. Accordingly, the role of the European Network of Infrastructure Manager should be strengthened with a view to entrusting it with the development of guidelines for the harmonised implementation of this Regulation on procedures and methodologies for the management of rail infrastructure capacity and with the active coordination of cross-border capacity and traffic. In particular, the European Network of Infrastructure Managers should develop European frameworks for capacity management, for the coordination of cross-border traffic management, disruption management and crisis management, and for performance

review.

review. ***Railway undertakings, applicants and other operational stakeholders should also be consulted in the development of these European Frameworks.***

Or. en

Amendment 9

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) Continuous monitoring of the quality of rail infrastructure and transport services is a precondition for improving the performance of these services. It is therefore necessary to establish a transparent and objective system of indicators that provides feedback on aspects of performance that are relevant for the different operational stakeholders and for the end customers of rail transport services. The main function of that a system should focus on monitoring the fulfilment of commitments made by the operational stakeholders and progress in performance over time while taking into account different circumstances and characteristics within the rail sector. For the establishment of such a system and the analysis of its output, the Commission should be able to rely on independent experts in the form of a Performance Review Body. This body should be able to provide independent advice to the Commission in all areas that influence the performance of rail services and infrastructure management.

Amendment

(19) Continuous monitoring of the quality of rail infrastructure and transport services is a precondition for improving the performance of these services. It is therefore necessary to establish a transparent and objective system of indicators that provides feedback on aspects of performance that are relevant for the different operational stakeholders and for the end customers of rail transport services. The main function of that a system should focus on monitoring the fulfilment of commitments made by the operational stakeholders and progress in performance over time while taking into account different circumstances and characteristics within the rail sector. For the establishment of such a system and the analysis of its output, the Commission should be able to rely on independent experts ***with a profound knowledge of the railway sector*** in the form of a Performance Review Body. This body should be able to provide independent advice to the Commission in all areas that influence the performance of rail services and infrastructure management.

Or. en

Justification

By incorporating profound knowledge of the railway sector into the Performance Review

Body, the proper involvement of both infrastructure managers and railway undertakings can be ensured. Experts need to be independent and non-biased.

Amendment 10

Proposal for a regulation

Recital 21

Text proposed by the Commission

(21) To ensure an effective EU framework for the coordination of rail infrastructure managers, the European Network of Infrastructure Managers, established by Directive 2012/34/EU, should become more operational. It should include decision-making mechanisms, which allow EU rail infrastructure managers to effectively coordinate on the strategic planning of rail infrastructure capacity.

Amendment

(21) To ensure an effective EU framework for the coordination of rail infrastructure managers, the European Network of Infrastructure Managers, established by Directive 2012/34/EU, should become more operational. It should include decision-making mechanisms, which allow EU rail infrastructure managers to effectively coordinate on the strategic planning of rail infrastructure capacity. ***The infrastructure managers and the Commission should take the necessary preparatory steps to ensure that the European Network of Infrastructure Managers have good conditions for their coordinating tasks by the entry into force of this Regulation.***

Or. en

Amendment 11

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) The rail regulatory bodies should cooperate at Union level to ensure coherent application of the regulatory framework and consistent treatment of applicants across the single European railway area. They should do so through the European Network of Rail Regulatory Bodies, with a view to develop common practices for

Amendment

(22) The rail regulatory bodies should cooperate at Union level to ensure coherent application of the regulatory framework and consistent treatment of applicants across the single European railway area. They should do so through the European Network of Rail Regulatory Bodies, with a view to develop common practices for

making the decisions for which they are empowered under this Regulation. For that purpose, the European Network of Rail Regulatory Bodies should perform coordination tasks and adopt non-binding recommendations and opinions, which should not affect the competences of the rail regulatory bodies or those of the infrastructure managers.

making the decisions for which they are empowered under this Regulation. For that purpose, the European Network of Rail Regulatory Bodies should perform coordination tasks and adopt non-binding recommendations and opinions, which should not affect the competences of the rail regulatory bodies or those of the infrastructure managers. ***European Network of Rail Regulatory Bodies should check the compatibility of the European Frameworks, proposed by European Network of Infrastructure Managers, with the regulatory objectives set by this Regulation. Regulatory supervision should be designed in a way that national decisions cannot undermine the harmonised procedures described in the frameworks, unless exemptions provided for in this Regulation apply.***

Or. en

Justification

To make sure that they are in line with the objectives under this Regulation, the European Framework of Capacity and Traffic Management and Performance Review should be checked for compatibility.

Amendment 12

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) To ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to introduce technical and operational requirements to facilitate the smooth functioning of the single European railway area concerning uniform criteria for the requirements set by infrastructure managers with regard to applicants; common procedures, criteria and methodologies for the management of

Amendment

(27) To ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to introduce technical and operational requirements to facilitate the smooth functioning of the single European railway area concerning uniform criteria for the requirements set by infrastructure managers with regard to applicants; common procedures, criteria and methodologies for the management of

scarce capacity, for contingency planning, and for the allocation of capacity beyond the period covered by the working timetable; common approach to compensations paid for changes to allocated capacity; common criteria and procedures for rescheduling; the definition of the technical elements of a system for monitoring the performance of rail and rail-related services, including methodologies and data requirements and their review. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁹ .

scarce capacity, for contingency planning, and for the allocation of capacity beyond the period covered by the working timetable; common approach to compensations paid for changes to allocated capacity, **including capacity specifications**, common criteria and procedures for rescheduling; the definition of the technical elements of a system for monitoring the performance of rail and rail-related services, including methodologies and data requirements and their review. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁹ .

¹⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

¹⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 13

Proposal for a regulation **Recital 29**

Text proposed by the Commission

(29) The ex-post evaluation of Regulation (EU) No 913/2010²⁰ concluded that the Regulation's impact was too limited to contribute to a modal shift from road to rail. Moreover, the cooperation between Member States and infrastructure managers in the management of the rail infrastructure was still ineffective from a cross-border perspective. The evaluation has also shown that managing separately the capacity on the rail freight corridors

Amendment

(29) The ex-post evaluation of Regulation (EU) No 913/2010²⁰ concluded that the Regulation's impact was too limited to contribute to a modal shift from road to rail. Moreover, the cooperation between Member States and infrastructure managers in the management of the rail infrastructure was still ineffective from a cross-border perspective. The evaluation has also shown that managing separately the capacity on the rail freight corridors

and on the rest of the network is not efficient. A single regulatory framework should apply to the operation of rail network capacity, consolidating the related provisions in Directive 2012/34/EU and of Regulation (EU) No 913/2010. Therefore, Regulation (EU) No 913/2010 and the provisions in Directive 2012/34/EU on capacity allocation should be repealed and replaced by this Regulation.

²⁰ SWD(2021) 134 final of 2 June 2021

and on the rest of the network is not efficient. A single regulatory framework should apply to the operation of rail network capacity, consolidating the related provisions in Directive 2012/34/EU and of Regulation (EU) No 913/2010. Therefore, Regulation (EU) No 913/2010 and the provisions in Directive 2012/34/EU on capacity allocation should be repealed and replaced by this Regulation, and ***Regulation on Union Guidelines for the development of the trans-European transport network²¹ should be amended accordingly.***

²⁰ SWD(2021) 134 final of 2 June 2021

²¹ Regulation (EU) .../... of the European Parliament and the Council on Union guidelines for the development of the trans-European transport network, amending Regulation (EU) 2021/1153 and Regulation (EU) No 913/2010 and repealing Regulation (EU) 1315/2013 (OJ L...)

Or. en

Amendment 14

Proposal for a regulation Recital 31

Text proposed by the Commission

(31) Under the new framework, the preparatory steps for a working timetable should begin with the publication of a capacity strategy five years before the entry into force of a given working timetable. In the interest of an early application of the new regulatory framework and taking into account the preparatory work already undertaken by the sector, the schedule of activities leading to the establishment of the first two working timetables could be shortened to

Amendment

(31) Under the new framework, the preparatory steps for a working timetable should begin with the publication of a capacity strategy five years before the entry into force of a given working timetable. In the interest of an early application of the new regulatory framework and taking into account the preparatory work already undertaken by the sector, the schedule of activities leading to the establishment of the first two working timetables could be shortened to

38 months by abbreviating the phase of the capacity strategy. Accordingly, the first working timetable falling under the new regulatory framework should be the working timetable starting on [9 December 2029]. All stakeholders should start the necessary preparations without delay with a view to comply with the new framework.

38 months by abbreviating the phase of the capacity strategy. Accordingly, the first working timetable falling under the new regulatory framework should be the working timetable starting on [9 December 2029]. All stakeholders should start the necessary preparations without delay with a view to comply with the new framework. ***An earlier application date could be considered for Member States that are able to prove that they have carried out all the necessary steps before the adoption date of the Regulation.***

Or. en

Amendment 15

Proposal for a regulation

Article 2 – paragraph 3 – point a

Text proposed by the Commission

(a) make optimum effective use of the available infrastructure capacity as required in Article 26 of Directive 2012/34/EU;

Amendment

(a) make optimum effective use of the available infrastructure capacity as required in Article 26 of Directive 2012/34/EU ***with the aim of increasing the share of rail transport, both for passengers and freight, in line with the Union's climate targets;***

Or. en

Justification

The aim of making more optimum effective use of available infrastructure is to increase the share of rail transport, both for passenger and freight in line with the climate targets that the EU has committed to.

Amendment 16

Proposal for a regulation

Article 2 – paragraph 3 – point d

Text proposed by the Commission

Amendment

(d) enable seamless rail traffic across more than one network;

(d) enable seamless **and punctual** rail traffic across more than one network **by striving to eliminate bottlenecks and operational obstacles**;

Or. en

Justification

Punctuality is key to ensure and increase the rail infrastructure capacity. Unexpected events such as infrastructure failures or technical problems with trains are creating obstacles for a well functioning rail traffic system. In Germany alone, there were 230 such disturbances per day in 2022. It is important that infrastructure managers should strive to overcome bottlenecks and operational obstacles.

Amendment 17

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. As regards capacity management and the long-term planning of major maintenance, renewal and upgrade of the railway infrastructure, the infrastructure manager shall consult applicants, as defined in Article 3, point 19 of Directive 2012/34/EU, in accordance with this Regulation and, to the best possible extent, take into account the concerns expressed.

3. As regards capacity management and the long-term planning of major maintenance, renewal and upgrade of the railway infrastructure, the infrastructure manager shall consult **,throughout the process,** applicants as defined in Article 3, point 19 of Directive 2012/34/EU, in accordance with this Regulation and, to the best possible extent, take into account the concerns expressed.

Or. en

Justification

Consultation should incorporate a dialogue logic, so that consultation with applicants is not a one-off occurrence. This will permit the involvement of applicants throughout the entire process.

Amendment 18

Proposal for a regulation

Article 4 – paragraph 2 – point 1

Text proposed by the Commission

Amendment

(1) ‘force majeure’ means any unforeseeable or unusual event or situation beyond the control of the infrastructure manager or the railway undertaking, which cannot be avoided or overcome with reasonable foresight and diligence, be solved by measures which are from a technical, financial or economic point of view reasonably possible for them, which has actually happened and is objectively verifiable, and which makes it impossible for the infrastructure manager to fulfil, temporarily or permanently, its obligations in accordance with this Regulation or Directive 2012/34/EU or for the railway undertaking to meet its contractual obligations towards an infrastructure manager or managers;

deleted

Or. en

Justification

Clear rules under which circumstances infrastructure managers can cancel capacity without compensation are outlined in the text.

Amendment 19

Proposal for a regulation

Article 4 – paragraph 2 – point 1 a (new)

Text proposed by the Commission

Amendment

(1a) ‘rail infrastructure capacity’ means the maximum number of trains that can move in a defined period of time on a geographically defined part of the railway network and related infrastructure characteristics under

required or desired level of service, as well as other elements that will impact capacity, such as train length, traffic composition, and speed;

Or. en

Justification

A clear definition is needed on the central term of this legislation.

Amendment 20

Proposal for a regulation

Article 4 – paragraph 2 – point 3

Text proposed by the Commission

(3) ‘operational stakeholder’ means an applicant, railway undertaking, infrastructure manager, rail service facility operator, provider of rail-related services and any other entity directly involved in operating a rail transport service;

Amendment

(3) ‘operational stakeholder’ means an applicant *as defined in Directive 2012/34/EU, Article 2 point (19)*, railway undertaking, infrastructure manager, rail service facility operator, provider of rail-related services and any other entity directly involved in operating a rail transport service;

Or. en

Amendment 21

Proposal for a regulation

Article 4 – paragraph 2 – point 10

Text proposed by the Commission

(10) ‘multi-network rail service’ means a freight or passenger rail transport service, domestic or international, which is operated on two or more networks managed by different infrastructure managers. The train may be joined and/or split and the different sections may have different origins and destinations, provided that *all wagons or carriages cross* over

Amendment

(10) ‘multi-network rail service’ means a freight or passenger rail transport service, domestic or international, which is operated on two or more networks managed by different infrastructure managers. The train may be joined and/or split and the different sections may have different origins and destinations, provided that *the requested capacity crosses* over

into at least one network operated by a different infrastructure manager;

into at least one network operated by a different infrastructure manager;

Or. en

Justification

In the Commission text, a freight train which is running through three countries and collects any single wagons for domestic operation (only short stretch) would not be covered anymore. This change ensures that any path request indicating a train crosses a network border should be covered.

Amendment 22

Proposal for a regulation

Article 4 – paragraph 2 – point 12

Text proposed by the Commission

(12) ‘partitioning of infrastructure capacity’ means assigning shares of the total available capacity of an element of infrastructure to different types of rail transport services and to capacity restrictions resulting from infrastructure work.

Amendment

(12) ‘partitioning of infrastructure capacity’ means assigning shares of the total available capacity of an element of infrastructure to different types of rail transport services and to capacity restrictions resulting from infrastructure work ***or to allocation processes as defined in Annex I.***

Or. en

Justification

To be consistent with the description of capacity model in Annex 1, the definition of "partitioning of infrastructure capacity" should also include allocation processes.

Amendment 23

Proposal for a regulation

Article 4 – paragraph 2 – point 13 a (new)

Text proposed by the Commission

Amendment

(13a) ‘rolling planning’ means a path request which serves multi-annual demands, irrespective of any timetable change, and which also serves the request

for capacity needs that are not known, or that are not stable, at the moment that the deadlines for annual timetable requests are reached, and that enables applicants to request capacity for the term of the contract;

Or. en

Amendment 24

Proposal for a regulation

Article 4 – paragraph 2 – point 17 a (new)

Text proposed by the Commission

Amendment

(17a) ‘compensation’ means an incentive fee to be paid in case of the amendment and/or cancellation of an allocated train path which is limited to the amount defined by the responsible party and published in the network statement of the respective infrastructure manager.

Or. en

Justification

If not defined, the term compensation might raise expectations of compensations beyond the intention of this Regulation.

Amendment 25

Proposal for a regulation

Article 4 – paragraph 2 – point 17 b (new)

Text proposed by the Commission

Amendment

(17b) ‘systematic train paths’ means train paths constructed by the infrastructure manager based on operating experience, demand, market forecasts and political goals, which are allocated to market segments, occur at hourly intervals at the same minute and

are formed to further optimise the utilisation of infrastructure and to optimise interchange connections between passenger services in node stations.

Or. en

Justification

Definition needed to legally allow infrastructure managers to use the concept for capacity planning in addition to the EU Commission model. Compared to the Commission model, systematic train paths are more detailed and reduce planning effort in case of temporary capacity restrictions. They boost resilience and increase transparency.

Amendment 26

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

1. Infrastructure managers shall **strive to** follow common principles and procedures for the management of rail infrastructure capacity. For this purpose, ENIM shall develop and adopt a ‘European framework for capacity management’ in accordance with the provisions of Chapter II by [12 months **of** the entry into force of this Regulation].

Amendment

1. Infrastructure managers shall follow common principles and procedures for the management of rail infrastructure capacity. For this purpose, ENIM shall develop, **consult with the European Operational Stakeholder Platform (EOSP) prior to the adaption** and adopt a ‘European framework for capacity management’ in accordance with the provisions of Chapter II by [12 months **after** the entry into force of this Regulation]. **ENIM shall publish the principles and procedures that govern this consultation.**

Or. en

Justification

Consultation with operational stakeholders is vital to assure the development infrastructure capacity development along the line of market needs. For this reason, operational stakeholders should be involved in a consultative role and in a dialogue logic throughout the entire process. The consultation should apply to railway companies (railway undertakings), but all entities involved in operating a rail service would be covered under operational stakeholders and may contribute useful market related information.

Amendment 27

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

4. Infrastructure managers shall take **the utmost** account of the European framework for capacity management when preparing the network statement referred to in Article 27 of Directive 2012/34/EU, in particular the contents specified in Annex IV of this Regulation. They shall explain in the network statement the reason for any deviation from the common principles and procedures established in the European framework for capacity management.

Amendment

4. Infrastructure managers shall take account of the European framework for capacity management when preparing the network statement referred to in Article 27 of Directive 2012/34/EU, in particular the contents specified in Annex IV of this Regulation. They shall explain in the network statement the reason for any deviation from the common principles and procedures established in the European framework for capacity management. ***Deviations shall only be allowed in exceptional cases where there are sufficient justifications and subject to approval by the European Network of Rail Regulatory Bodies.***

Or. en

Amendment 28

Proposal for a regulation Article 7 – paragraph 3

Text proposed by the Commission

3. The Commission **may** adopt **implementing** acts setting out the details of the criteria to be followed for the application of paragraph 2. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).***

Amendment

3. The Commission **shall** adopt **delegated** acts **in accordance with Article 71** setting out the details of the criteria to be followed for the application of paragraph 2.

Or. en

Justification

The implementing acts may not be properly framed.

Amendment 29

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to State aid rules, Member States *may*, where appropriate, grant the infrastructure manager compensation corresponding to losses of revenue related exclusively to the need to comply with the strategic guidance regarding the use of rail infrastructure capacity.

Amendment

Without prejudice to State aid rules, Member States *shall*, where appropriate, grant the infrastructure manager compensation corresponding to losses of revenue related exclusively to the need to comply with the strategic guidance regarding the use of rail infrastructure capacity.

Or. en

Justification

Infrastructure managers should not suffer financial losses due to strategic guidance from the Member States.

Amendment 30

Proposal for a regulation

Article 8 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

To this end, infrastructure managers shall distinguish between:

(a) conflicts about the same pre-planned capacity ; and

(b) conflicts between two requests that both are not consistent with the strategic capacity planning.

Or. en

Amendment 31

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 2 – introductory part

Text proposed by the Commission

Those procedures shall assess alternative options for the use of infrastructure capacity, based on the following socioeconomic and environmental criteria, subject to the availability of data:

Amendment

Those procedures shall assess alternative options for the use of infrastructure capacity, based on the following socioeconomic and environmental criteria ***that have already provided a basis for the strategic capacity planning in Articles 11 and 12***, subject to the availability of data ***to be provided by applicants to the infrastructure manager***:

Or. en

Justification

The socioeconomic and environmental criteria should not only be used for conflict resolution of scarce infrastructure, it would be ideal to introduce these already in the strategic capacity planning.

Amendment 32

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 2 – point c

Text proposed by the Commission

(c) connectivity and accessibility for people and regions served by the rail transport services;

Amendment

(c) connectivity and accessibility, ***both as a network effect on the overall network and network segments***, for people and regions served by the rail transport services;

Or. en

Amendment 33

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) modal shift effects towards rail, as well as reverse modal shift to less environmentally friendly modes of transport.

Or. en

Amendment 34

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall adopt a delegated act in accordance with Article 71 setting out the criteria and the standardised methodologies for the calculation and application of the socio-economic and environmental criteria, as well as determining the standardised and representative data sources. The Commission shall include European Rail International Capacity Allocation body (ERICA) in its work.

Or. en

Justification

It will be important to ensure a standardised methodology and criteria in the union in particular to allow for cross-border solutions. Hence, the Commission should set this out in a delegated act. This does not undermine the possibility of Member States to locally adapt the weighing of criteria if the local circumstances so require for political or economic reasons. However, it should be made clear how prioritisation across borders should work when the Member States have different guidance and prioritisation.

Amendment 35

Proposal for a regulation

Article 8 – paragraph 5 – introductory part

Text proposed by the Commission

5. ENIM shall prepare and adopt the procedures referred to in paragraph 4 and include them in the EU framework for capacity management referred to in Article 6. The procedures shall involve the following steps:

Amendment

5. ENIM, ***in consultation with the European Operational Stakeholder Platform (EOSP)***, shall prepare and adopt the procedures referred to in paragraph 4 and include them in the EU framework for capacity management referred to in Article 6. The procedures shall involve the following steps:

Or. en

Amendment 36

**Proposal for a regulation
Article 8 – paragraph 5 – point a**

Text proposed by the Commission

(a) design alternative scenarios to partition the capacity available for different ***types*** of rail transport services, involving, where possible, the provision of alternative capacity on other routes or alternative timing with comparable characteristics;

Amendment

(a) design alternative scenarios to partition the capacity available for ***every*** different ***type*** of rail transport services ***that apply for the same capacity***, involving, where possible, the provision of alternative capacity on other routes or alternative timing with comparable characteristics ***both for domestic and cross-border services***;

Or. en

Amendment 37

**Proposal for a regulation
Article 8 – paragraph 5 – point a a (new)**

Text proposed by the Commission

Amendment

(aa) designate alternative scenarios to address capacity conflicts between two requests neither of which is consistent with the strategic capacity planning;

Amendment 38**Proposal for a regulation
Article 8 – paragraph 6***Text proposed by the Commission*

6. ENIM shall develop the methodologies referred to in paragraph 5, point b. The parameters of those methodologies shall make it possible to take into account local or national circumstances based on accepted approaches and empirical evidence. ENIM shall include those methodologies in the European framework for capacity management referred to in Article 6.

Amendment

6. ENIM shall, ***in consultation with the European Operational Stakeholder Platform (EOSP)***, develop the methodologies referred to in paragraph 5, point b. The parameters of those methodologies shall make it possible to take into account local or national circumstances based on accepted approaches and empirical evidence. ENIM shall include those methodologies in the European framework for capacity management referred to in Article 6.

Amendment 39**Proposal for a regulation
Article 8 – paragraph 7***Text proposed by the Commission*

7. Taking into account experiences with the preparation and implementation of the framework referred to in paragraph 6, the Commission ***may*** adopt ***implementing*** acts setting out the specific procedures, criteria and methodologies to be applied for the management of scarce capacity. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).***

Amendment

7. Taking into account experiences with the preparation and implementation of the framework referred to in paragraph 6, the Commission ***shall*** adopt ***delegated*** acts ***in accordance with Article 71*** setting out the specific procedures, criteria and methodologies to be applied for the management of scarce capacity. ***The Commission shall involve ERICA in its work.***

Justification

The implementing acts may not be properly framed. ERICA as referred to in Article 57 a new.

Amendment 40

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Infrastructure managers shall provide interested parties, in particular ***applicants, potential*** applicants and regulatory bodies, with accurate and up-to-date information on the availability of infrastructure capacity throughout the entire capacity management process, including in the strategic planning phase referred to in section 2, during the scheduling and allocation processes set out in section 3 and whenever there are changes to allocated capacity as referred to in section 4.

Amendment

Infrastructure managers shall provide interested parties, in particular applicants and regulatory bodies, with accurate and up-to-date information on the availability of infrastructure capacity throughout the entire capacity management process, including in the strategic planning phase referred to in section 2, during the scheduling and allocation processes set out in section 3 and whenever there are changes to allocated capacity as referred to in section 4, ***depending on the availability of the published capacity strategy, capacity model and capacity supply plan.***

Or. en

Amendment 41

Proposal for a regulation

Article 10 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 7, 7c and 7e of Directive 2012/34/EU, infrastructure managers shall plan infrastructure work in accordance with the business plan and with the investment and financial programmes referred to in Article 8(3) of Directive 2012/34/EU. Where amendments to those programmes after the adoption of the business plan affect or are likely to affect the planning of infrastructure works, the infrastructure

Amendment

1. Without prejudice to Articles 7, 7c and 7e of Directive 2012/34/EU, infrastructure managers shall plan infrastructure work in accordance with the business plan and with the investment and financial programmes referred to in Article 8(3) of Directive 2012/34/EU. Where amendments to those programmes after the adoption of the business plan affect or are likely to affect the planning of infrastructure works, the infrastructure

manager shall provide an overview of such amendments and their likely impact in the network statement.

manager shall provide an overview of such amendments and their likely impact in the network statement. ***The Member State shall provide the infrastructure manager with stable and timely multiannual funding for the maintenance, renewal and new construction of rail infrastructure for a period of at least 5 years via the multiannual performance agreement in order to support infrastructure managers to prevent the degrading of rail infrastructure and minimise the impact on possible capacity restrictions. The annual budget available to infrastructure managers should be known beforehand and be reliably allocated.***

Or. en

Justification

Unpredictable funding in terms of timing and amount leads to difficulties in planning construction and maintenance work. This in turn, often leads to inadequately planned, poorly coordinated and insufficiently communicated Temporary Capacity Restrictions (TCRs). It is key that infrastructure managers receives secured multiannual funding and cash flow for operation, maintenance and upgrading of infrastructure for a period of at least 5 years. Transparency is important for infrastructure managers to understand how much money is reliably available for construction sites.

Amendment 42

Proposal for a regulation

Article 10 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Multiannual funding provided by the Member State to the infrastructure manager shall support the goal of establishing this balance. Applicants shall provide the infrastructure manager in a timely manner with the information required for the infrastructure manager's compliance with this provision.

Or. en

Amendment 43

Proposal for a regulation

Article 10 – paragraph 5 – subparagraph 1

Text proposed by the Commission

Infrastructure managers shall take into account and mitigate the impact of infrastructure works on cross-border traffic. Infrastructure managers shall coordinate in accordance with Article 53 all infrastructure works on the lines referred to in Article 53(3) and any other infrastructure work with **significant** cross-border impact.

Amendment

Infrastructure managers shall take into account and mitigate the impact of infrastructure works on cross-border traffic. Infrastructure managers shall coordinate in accordance with Article 53 all infrastructure works on the lines referred to in Article 53(3) and any other infrastructure work with cross-border impact.

Or. en

Amendment 44

Proposal for a regulation

Article 10 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Coordination shall address in particular the optimisation of the schedule of infrastructure works and the provision of alternative capacity on the line affected and on alternative routes, taking into account the operational and commercial needs of applicants.

Amendment

Coordination shall address in particular the optimisation of the schedule of infrastructure works and the provision of alternative capacity on the line affected and on alternative routes, taking into account the operational, **infrastructure** and commercial needs of **different** applicants.

Or. en

Amendment 45

Proposal for a regulation

Article 11 – paragraph 1

Text proposed by the Commission

1. Strategic capacity planning shall

Amendment

1. Strategic capacity planning shall

include all activities set out in Articles 12 to 25.

include all activities set out in Articles 12 to 25 **and shall not impede national or local market approaches in timetabling, such as regular-interval timetables, as long as they do not contradict international processes.**

Or. en

Amendment 46

Proposal for a regulation

Article 11 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The contents of and the schedule for preparing those deliverables are set out in sections 1 and 2 of Annex I.

Amendment

The contents of and the schedule for preparing those deliverables are set out in sections 1 and 2 of Annex I. **All content shall be made available by the infrastructure manager in the national language and in English.**

Or. en

Amendment 47

Proposal for a regulation

Article 11 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Subject to the principle of management independence laid down in Article 4 of Directive 2012/34/EU, Member States may provide the infrastructure manager with strategic guidance based on the indicative rail infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. That guidance may cover/contain in particular:

Amendment

Subject to the principle of management independence laid down in Article 4 of Directive 2012/34/EU, Member States may provide the infrastructure manager with strategic guidance based on the indicative rail infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. **The guidance shall be provided by Member States in time to allow infrastructure managers and operational stakeholders to follow the deadlines set out in Annex I.** That guidance may cover/contain in particular:

Amendment 48

Proposal for a regulation

Article 11 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

(a) general objectives of national rail policy relevant for strategic capacity planning within the scope of this Regulation;

Amendment

(a) general objectives of national rail policy relevant for strategic capacity planning within the scope of this Regulation, ***including rail freight transport***;

Or. en

Amendment 49

Proposal for a regulation

Article 11 – paragraph 3 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) long-term strategic infrastructure plans and their separate stages including specific timetabling concepts underlying the infrastructure plans, from those Member States where this is applicable;

Or. en

Amendment 50

Proposal for a regulation

Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall coordinate ***to*** ensure consistency between the respective strategic guidance they provide in accordance with this paragraph with a view to supporting the development of

Amendment

Member States shall coordinate ***the timely provision of guidance and*** ensure consistency between the respective strategic guidance they provide in accordance with this paragraph with a view

international passenger and freight rail services.

to supporting the development of international passenger and freight rail services. ***In the light of Article 8 of Directive 2012/34/EU, Member States shall ensure advance allocation of financial resources for the infrastructure managers for regular maintenance of infrastructure and financial resources for infrastructure development described in the capacity strategy as referred in Article 16 of this Regulation. The Member States shall coordinate their long-term strategic infrastructure and timetable plans, the infrastructure derived from them and the time stages.***

Or. en

Amendment 51

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(b a) long distance inter-urban night passenger services;

Or. en

Amendment 52

Proposal for a regulation

Article 12 – paragraph 4 – point c

Text proposed by the Commission

Amendment

(c) the input from ***the*** consultation of ***current and potential applicants*** in accordance with Article 13;

(c) ***capacity needs announcements by operational stakeholders and*** the input from ***their*** consultation in accordance with Article 13;

Or. en

Amendment 53

Proposal for a regulation

Article 12 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Strategic capacity planning shall cover the lines part of the TEN-T core and extended core network referred to in Article 6 of and Annex I to [new TEN-T Regulation]. Infrastructure managers may include other lines and nodes of the network they manage.

Amendment

Strategic capacity planning shall cover the lines part of the TEN-T core and extended core network referred to in Article 6 of and Annex I to [new TEN-T Regulation]. Infrastructure managers may include other lines and nodes of the network they manage. ***The Member States and the public service authorities may extend the cover to other lines where they deem this to be necessary for the strategic capacity planning.***

Or. en

Amendment 54

Proposal for a regulation

Article 12 – paragraph 6 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Strategic capacity planning shall take account as much as possible of the socio-economic and environmental criteria listed in Article 8 (4) subject to the availability of data to be provided by applicants to the infrastructure manager.

Or. en

Amendment 55

Proposal for a regulation

Article 12 – paragraph 8 – point b

Text proposed by the Commission

Amendment

(b) changes in market demand for

(b) changes in market demand for ***rail***

infrastructure capacity;

transport and infrastructure capacity
including capacity needs announced by
applicants for new or modified services

Or. en

Amendment 56

Proposal for a regulation Article 13 – paragraph 2

Text proposed by the Commission

2. Infrastructure managers shall consult all operational stakeholders operating multi-network rail services on strategic capacity planning in accordance with Articles 53 and 54.

Amendment

2. Infrastructure managers shall consult all operational stakeholders operating multi-network rail services on strategic capacity planning ***throughout the strategic capacity management phase, and at least in accordance with the milestones set out in Annex I*** in accordance with Articles 53 and 54.

Or. en

Amendment 57

Proposal for a regulation Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Throughout the capacity management process, applicants shall be given the possibility to announce their capacity needs in a structured, common way and according to suitable timelines specified by ENIM. Infrastructure managers shall take the utmost efforts to incorporate the announced needs into the strategic capacity planning referred to in Article 11(2). Where infrastructure managers are unable to consider these needs, they shall consult the concerned applicant and together investigate commercially viable alternatives,

including via different itineraries or feasible changes on the infrastructure. If such alternatives are not available for all announced capacity needs, the infrastructure managers shall attempt to resolve the potential conflict through the consensual consultation mechanism referred to in Article 36.

Or. en

Amendment 58

Proposal for a regulation Article 13 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Infrastructure managers shall consult the regulatory body on strategic capacity planning.

Or. en

Amendment 59

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. ENIM shall take into account any relevant complaint by ***applicants or potential*** applicants on the planning documents referred to in Article 11(2) and shall request additional information from the entities involved in the coordination in accordance with Article 53 and from operational stakeholders consulted in accordance with Article 54, prior to adopting an opinion or recommendation to improve the consistency of those planning documents. ENIM shall share its opinion on the draft planning documents with the ENRRB or inform the latter of a failure to

2. ENIM shall take into account any relevant complaint by applicants on the planning documents referred to in Article 11(2) and shall request additional information from the entities involved in the coordination in accordance with Article 53 and from operational stakeholders consulted in accordance with Article 54, prior to adopting an opinion or recommendation to improve the consistency of those planning documents. ENIM shall share its opinion on the draft planning documents with the ENRRB or inform the latter of a failure to adopt an

adopt an opinion. The ENRRB shall act in accordance with Article 65(3).

opinion. The ENRRB shall act in accordance with Article 65(3).

Or. en

Amendment 60

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

1. **Infrastructure managers and ENIM** shall regularly monitor and analyse transport markets in order to inform their overall business strategy, capacity and contingency management and investment decisions. Infrastructure managers shall communicate the results of this analysis to other stakeholders for similar purposes, including the European Coordinators.

Amendment

1. **ENRRB, in consultations with the stakeholder advisory groups**, shall regularly monitor and analyse transport markets **and relevant multimodal aspects** in order to inform **the work of ENIM and infrastructure managers on** their overall business strategy, capacity and contingency management and investment decisions. Infrastructure managers shall communicate the results of this analysis to other stakeholders for similar purposes, including the European Coordinators.

Or. en

Amendment 61

Proposal for a regulation Article 15 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(ca) if possible, the impact of projected climate change effects both infrastructure and the services provided.

Or. en

Amendment 62

Proposal for a regulation Article 15 – paragraph 4

Text proposed by the Commission

4. ENIM shall consult applicants, customers of rail transport services and their associations, national and EU public authorities on the terms of reference for the study, in particular as regards the purpose of the study and the process for stakeholder involvement.

Amendment

4. ENIM shall consult ***applicants, the new consultative bodies established in Article 53 a (new), potential*** applicants, customers of rail transport services and their associations, national and EU public authorities on the terms of reference for the study, in particular as regards the purpose of the study and the process for stakeholder involvement. ***The stakeholder involvement shall include the possibility for operational stakeholders to give input to the study and to make an independent comment on the result.***

Or. en

Amendment 63

Proposal for a regulation Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. ENIM shall publish, and make freely accessible, all data for the study and the study itself. The data shall be machine readable.

Or. en

Justification

This is important considering the use of public money.

Amendment 64

Proposal for a regulation Article 16 – paragraph 4

Text proposed by the Commission

4. The infrastructure manager shall prepare, publish and **regularly update** the capacity strategy in accordance with the schedule and the contents set out in section 2 of Annex I.

Amendment

4. The infrastructure manager shall prepare, publish and **include information in** the capacity strategy in accordance with the schedule and the contents set out in section 2 of Annex I.

Or. en

Amendment 65

**Proposal for a regulation
Article 16 – paragraph 5**

Text proposed by the Commission

5. Infrastructure managers shall consult applicants on the capacity strategy in accordance with Article 13 and coordinate capacities strategies with **other** infrastructure managers in accordance with Article 14.

Amendment

5. Infrastructure managers shall consult applicants on the capacity strategy in accordance with Article 13 and coordinate capacities strategies with **neighbouring** infrastructure managers in accordance with Article 14.

Or. en

Justification

Naturally, infrastructure managers should not be obliged to consult with all other European infrastructure managers, but rather with those that are relevant to their strategy, which are the neighbouring infrastructure managers. This will also reduce administrative burdens and allow for more efficient processes.

Amendment 66

**Proposal for a regulation
Article 16 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5a. The infrastructure manager shall submit the capacity strategy to the regulatory body, which - after analysis - shall have the power to require the

infrastructure manager to amend it.

Or. en

Amendment 67

Proposal for a regulation

Article 17 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Infrastructure managers shall document and shall be prepared to justify any divergence between the capacity model and announced capacity needs upon request of Regulatory Bodies or applicants.

Or. en

Justification

Documentation will allow infrastructure managers to prove in full transparency how they processed different inputs received for the capacity model in a non-biased manner.

Amendment 68

Proposal for a regulation

Article 17 – paragraph 2

Text proposed by the Commission

Amendment

2. The capacity model shall at least provide information about the total volume of capacity available by network section, the shares of capacity reserved for different segments of rail transport services and for capacity restrictions resulting from infrastructure works. Infrastructure managers shall prepare and publish the capacity model for each working timetable period ***and regularly update the capacity model*** in accordance with the contents and schedule set out in sections 1 and 2 of Annex I.

2. The capacity model shall at least provide information about the total volume of capacity available by network section, the shares of capacity reserved for different segments of rail transport services and for capacity restrictions resulting from infrastructure works. Infrastructure managers shall prepare and publish the capacity model for each working timetable period in accordance with the contents and schedule set out in sections 1 and 2 of Annex I.

Amendment 69

Proposal for a regulation Article 17 – paragraph 3

Text proposed by the Commission

3. Infrastructure managers shall document and, where relevant, justify any divergence between the capacity model and the capacity strategy concerning the same working timetable period. ***Where needed, the capacity strategy shall be revised in the light of developments since the adoption or the latest update of the capacity strategy.***

Amendment

3. Infrastructure managers shall document and, where relevant, justify any divergence between the capacity model and the capacity strategy concerning the same working timetable period.

Or. en

Amendment 70

Proposal for a regulation Article 17 – paragraph 4

Text proposed by the Commission

4. Infrastructure managers shall consult applicants on the capacity model in accordance with Article 13 and coordinate capacities strategies with ***other*** infrastructure managers in accordance with Article 14.

Amendment

4. Infrastructure managers shall consult applicants ***and the regulatory body*** on the capacity model in accordance with Article 13 and coordinate capacities strategies with ***neighbouring*** infrastructure managers in accordance with Article 14.

Or. en

Amendment 71

Proposal for a regulation Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The infrastructure manager shall submit the capacity model to the regulatory body, which - after analysis - shall have the power to require the infrastructure manager to amend it.

Or. en

Amendment 72

Proposal for a regulation

Article 18 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) infrastructure capacity available for allocation to applicants;

(a) infrastructure capacity available for allocation to applicants ***in the working timetable and safeguarded for later requests according to Article 33*** ;

Or. en

Amendment 73

Proposal for a regulation

Article 18 – paragraph 7 – subparagraph 1

Text proposed by the Commission

Amendment

Infrastructure managers shall include in the capacity supply plan the elements listed in paragraph 6, point (b) ***of*** for the rail infrastructure that they manage.

Infrastructure managers shall include in the capacity supply plan the elements listed in paragraph 6, point (b) for the rail infrastructure that they manage.

Or. en

Amendment 74

Proposal for a regulation

Article 18 – paragraph 7 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The Member States and the public service authorities may also extend the cover to other lines.

Or. en

Amendment 75

Proposal for a regulation Article 18 – paragraph 9

Text proposed by the Commission

Amendment

9. The ***regulatory body*** shall ***analyse*** the capacity supply plan ***and may take a decision requiring*** the infrastructure manager to amend the capacity supply plan. ***The decision of the regulatory body shall take*** into account ***any opinion of or recommendation by ENIM, where such has been provided.***

9. The ***infrastructure manager*** shall ***submit*** the capacity supply plan ***to the regulatory body, which shall - after analysis - have the power to require*** the infrastructure manager to amend the capacity supply plan ***to a reasonable extent that takes*** into account:

- (a) allocation timelines;***
- (b) the capacity coordinated by infrastructure managers and offered for multi-network train services; and***
- (c) the impact on the infrastructure works.***

Or. en

Amendment 76

Proposal for a regulation Article 19 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission shall adopt ***implementing*** acts setting out the details of the procedure and criteria to be followed for the application of paragraph 2, in

5. The Commission shall adopt ***delegated*** acts ***in accordance with Article 71*** setting out the details of the procedure and criteria to be followed for the

particular for situations which have a potential impact on cross-border traffic.
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

application of paragraph 2, in particular for situations which have a potential impact on cross-border traffic.

Or. en

Justification

The implementing acts may not be properly framed.

Amendment 77

**Proposal for a regulation
Article 20 – paragraph 2**

Text proposed by the Commission

2. Capacity planning objects shall define the characteristics and properties of different types of pre-planned capacity, including capacity available for requests by applicants, capacity reserved for infrastructure works and capacity already allocated. Those characteristics and properties shall include all aspects relevant for specific types of pre-planned capacity, such as route, timing, guaranteed or required minimum speed, the technical compatibility between rolling stock with infrastructure, parameters and number of slots included.

Amendment

2. Capacity planning objects shall define the characteristics and properties of different types of pre-planned capacity, including capacity available for requests by applicants, capacity reserved for infrastructure works and capacity already allocated. Those characteristics and properties shall include all aspects relevant for specific types of pre-planned capacity, such as route, timing, guaranteed or required minimum speed, the technical compatibility between rolling stock with infrastructure, ***segmentation***, parameters and number of slots included.

Or. en

Amendment 78

**Proposal for a regulation
Article 20 – paragraph 4**

Text proposed by the Commission

4. ENIM shall develop and adopt formal specifications for capacity planning

Amendment

4. ENIM shall develop and adopt formal specifications for capacity planning

objects in human-readable and in machine-readable format. ENIM shall include these specifications in the European framework for capacity management referred to in Article 6. Based on its experience in applying this Article, ENIM shall provide information to the Commission on possible amendments to the technical specifications on interoperability as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, in accordance with Article 62(3) of this Regulation.

objects in human-readable and in machine-readable format. ENIM shall include these specifications in the European framework for capacity management referred to in Article 6. Based on its experience in applying this Article, ENIM, ***following consultation with European Operational Stakeholder Platform (EOSP)***, shall provide information to the Commission on possible amendments to the technical specifications on interoperability as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, in accordance with Article 62(3) of this Regulation.

Or. en

Amendment 79

Proposal for a regulation Article 21 – paragraph 8

Text proposed by the Commission

8. The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement and shall respect any measures and criteria adopted in accordance with paragraph 7.

Amendment

8. The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement and shall respect any measures and criteria adopted in accordance with paragraph 6.

Or. en

Amendment 80

Proposal for a regulation Article 22 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The capacity analysis shall also include a first indicative set of possible measures to be taken in the short, medium and long term to ease the congestion and increase

Amendment

The capacity analysis shall also include a first indicative set of possible measures to be taken in the short, medium and long term to ease the congestion and increase

the availability of capacity.

the availability of capacity. ***The capacity analysis shall differentiate between measures for highly utilised infrastructure and for congested infrastructure.***

Or. en

Amendment 81

Proposal for a regulation Article 22 – paragraph 2

Text proposed by the Commission

2. The capacity analysis shall consider the characteristics of infrastructure in terms of capacity, capabilities and interoperability, operating procedures, the nature of the different services operating and the effect of all those factors on infrastructure capacity. Measures to be considered shall include in particular rerouting services, retiming services, speed alterations, harmonisation of operating procedures and infrastructure improvements.

Amendment

2. The capacity analysis shall consider the characteristics of infrastructure in terms of capacity, capabilities and interoperability, operating procedures, the nature of the different services operating and the effect of all those factors on infrastructure capacity. Measures to be considered shall include in particular rerouting services, ***including via different networks if applicable***, retiming services, speed alterations, harmonisation of operating procedures and infrastructure improvements.

Or. en

Justification

Facilitation of cross-border re-routing.

Amendment 82

Proposal for a regulation Article 22 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Infrastructure managers shall take into account the results of any capacity analysis carried out pursuant to this Article in

Amendment

Infrastructure managers shall take into account the results of any capacity analysis carried out, ***including in neighbouring***

strategic capacity planning, in particular in the capacity strategy, in the capacity model and in the capacity supply plan.

countries, pursuant to this Article in strategic capacity planning, in particular in the capacity strategy, in the capacity model and in the capacity supply plan.

Or. en

Amendment 83

Proposal for a regulation

Article 23 – paragraph 1 – subparagraph 2 – point d

Text proposed by the Commission

(d) the options and costs for capacity enhancement, including likely changes to access charges.

Amendment

(d) the options and costs for capacity enhancement, including **measures described in Article 22 (2) and** likely changes to access charges.

Or. en

Amendment 84

Proposal for a regulation

Article 23 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Member State shall construct or upgrade the needed infrastructure that is identified as a result of the capacity analysis.

Or. en

Amendment 85

Proposal for a regulation

Article 26 – paragraph 5

Text proposed by the Commission

Amendment

5. Where an applicant intends to

5. Where an applicant intends to

request infrastructure capacity with a view to operating **a** passenger service, in a Member State where the right of access to railway infrastructure is limited in accordance with Article 11 of Directive 2012/34/EU, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable the regulatory bodies concerned to assess the potential economic impact on existing public service contracts, 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 the right to limit access under Article 11 of Directive 2012/34/EU and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within 10 days.

request infrastructure capacity with a view to operating **an open access** passenger service, in a Member State where the right of access to railway infrastructure is limited in accordance with Article 11 of Directive 2012/34/EU, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates, **in order for infrastructure managers to consider it**. In order to enable the regulatory bodies concerned to assess the potential economic impact on existing public service contracts, 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 the right to limit access under Article 11 of Directive 2012/34/EU and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within 10 days.

Or. en

Amendment 86

Proposal for a regulation

Article 27 – paragraph 6 – subparagraph 1

Text proposed by the Commission

The infrastructure manager shall cancel a capacity right 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 applicant's control. ENIM shall define ranges for the threshold quota and include them in the European framework for capacity management referred to in Article

Amendment

The infrastructure manager shall cancel a capacity right 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 applicant's control. ENIM shall **consult with the European Operational Stakeholder Platform (EOSP)** shall define ranges for the threshold quota and include them in the European framework for

6.

capacity management referred to in Article 6. ***The regulatory body shall monitor the transparent and non-discriminatory application of this paragraph and investigate any complaints received.***

Or. en

Amendment 87

Proposal for a regulation Article 27 – paragraph 7

Text proposed by the Commission

7. Where the infrastructure manager cancels, in accordance with paragraph 6, multi-network capacity rights, the regulatory body responsible for that infrastructure manager shall inform the relevant regulatory bodies and the ENRRB.

Amendment

7. Where the infrastructure manager cancels, in accordance with paragraph 6, multi-network capacity rights, ***it shall inform*** the regulatory body responsible for that infrastructure manager. ***That regulatory body*** shall inform the relevant regulatory bodies and the ENRRB.

Or. en

Amendment 88

Proposal for a regulation Article 27 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The infrastructure manager shall be allowed to use the concept of hourly or bi-hourly recurring systematic train paths to maximise capacity. Systematic train paths shall be aligned across borders.

Or. en

Amendment 89

Proposal for a regulation

Article 28 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) the appointment of a single point of contact in charge of communication with the applicant in relation to the request for multi-network capacity right, which shall be notified to the applicant without delay after receipt of the request;

Amendment

(a) the appointment of a single point of contact in charge of communication with the applicant in relation to the request for multi-network capacity right, which shall be notified to the applicant without delay after receipt of the request. ***This shall also apply in the case of cross-border train pairs;***

Or. en

Amendment 90

Proposal for a regulation

Article 28 – paragraph 2 – subparagraph 2

Text proposed by the Commission

If infrastructure managers fail to appoint a single point of contact, the infrastructure manager on whose network the first place of departure is located shall be responsible to act as the single point of contact for enquiries related to the specific capacity request.

Amendment

If infrastructure managers fail to appoint a single point of contact, the infrastructure manager on whose network the first place of departure is located shall be responsible to act as the single point of contact for enquiries related to the specific capacity request. ***Connected or grouped rail services shall have one infrastructure manager as the single point of contact. Such connected or grouped rail services shall be declared in the capacity request.***

Or. en

Amendment 91

Proposal for a regulation

Article 28 – paragraph 3

Text proposed by the Commission

3. Infrastructure managers shall **not** provide capacity rights of **worse** quality in response to requests for multi-network capacity rights compared to requests for capacity concerning a single network.

Amendment

3. Infrastructure managers shall **allocate capacity rights or refuse requests regarding their networks. In case of denial the applicant may lodge a complaint with the regulatory body in the specified area of responsibility where the respective infrastructure manager falls. Infrastructure managers shall** provide capacity rights of **equal or higher** quality in response to requests for multi-network capacity rights compared to requests for capacity concerning a single network.

Or. en

Amendment 92

**Proposal for a regulation
Article 28 – paragraph 4**

Text proposed by the Commission

4. As regards the compensation for changes to capacity rights referred to in Article 40, a multi-network capacity right shall be considered as a single capacity right. In particular, a cancellation due to **force majeure on one network shall be considered as a cancellation due to force majeure** for the capacity right along the entire route covered by it.

Amendment

4. As regards the compensation for changes to capacity rights referred to in Article 40, a multi-network capacity right shall be considered as a single capacity right. In particular, a cancellation due to **unforeseeable, exceptional and unprovoked events outside the control of one infrastructure manager, which have destructive consequences on their infrastructure**, shall **apply to** the capacity right along the entire route covered by it **only if no alternative routing, including across borders, is available.**

Or. en

Amendment 93

**Proposal for a regulation
Article 29 – paragraph 5**

Text proposed by the Commission

5. The operators of service facilities referred to in paragraph 1 shall make available information, ***upon request or*** in real time ***where necessary***, about the available capacity to the infrastructure manager in a digital format in accordance with Article 62.

Amendment

5. The operators of service facilities referred to in paragraph 1 shall make available information in real time about the available capacity to the infrastructure manager in a digital format in accordance with Article 62.

Or. en

Amendment 94

**Proposal for a regulation
Article 29 – paragraph 5 a (new)**

Text proposed by the Commission

5a. ***When requesting capacity rights to access a service facility, applicants must document the agreement of the service facility owner to accommodate their vehicles.***

Amendment

5a. ***When requesting capacity rights to access a service facility, applicants must document the agreement of the service facility owner to accommodate their vehicles.***

Or. en

Amendment 95

**Proposal for a regulation
Article 29 – paragraph 7**

Text proposed by the Commission

7. The ENRRB shall monitor the application of paragraph 7 and shall provide recommendations on the criteria to be used in assessing the requests for exemptions.

Amendment

7. The ENRRB shall monitor the application of paragraph 6 and shall provide recommendations on the criteria to be used in assessing the requests for exemptions.

Or. en

Amendment 96

Proposal for a regulation Article 29 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Infrastructure managers shall inform the regulatory body of all capacity requests received that did not fit the parameters of the available capacity as defined in the capacity supply plan, and hence were refused. On the basis of this information, the regulatory body shall issue an opinion at least every two years, which may recommend to the infrastructure manager to amend the capacity model.

Or. en

Amendment 97

Proposal for a regulation Article 30 – paragraph 2

Text proposed by the Commission

Amendment

2. Infrastructure managers shall **continuously** update the working timetable until the end of the working timetable period, taking into account capacity allocated through the rolling planning process referred to in Article 33, capacity allocated through the ad hoc process referred to in Article 34, changes to capacity rights in accordance with Article 39 and rescheduling in the context of disruption management and crisis management in accordance with Article 41.

2. Infrastructure managers shall update the working timetable **at regular intervals** until the end of the working timetable period, taking into account capacity allocated through the rolling planning process referred to in Article 33, capacity allocated through the ad hoc process referred to in Article 34, changes to capacity rights in accordance with Article 39 and rescheduling in the context of disruption management and crisis management in accordance with Article 41.

Or. en

Amendment 98

Proposal for a regulation

Article 31 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Member States may require prior approval of framework agreements by the regulatory body.

Amendment

Framework agreements ***are to be approved*** by the regulatory body ***or, if they concern capacity over more than one Member State, by the ENRRB.***

Or. en

Amendment 99

Proposal for a regulation

Article 31 – paragraph 3

Text proposed by the Commission

3. Infrastructure managers shall conclude framework agreements only where the capacity right requested is consistent with the planning documents of the strategic capacity planning referred to in Article 11(2). Infrastructure managers shall indicate the capacity that they plan to reserve for allocation through framework agreements in these planning documents.

Amendment

3. Infrastructure managers shall conclude framework agreements only where the capacity right requested is consistent with the planning documents of the strategic capacity planning referred to in Article 11(2). Infrastructure managers shall indicate the capacity that they plan to reserve for allocation through framework agreements in these planning documents. ***Infrastructure managers may group systematic train paths into bundles (packages) of hourly, two-hourly or half-hourly train paths taking into account strategic guidance on the utilisation of infrastructure capacity provided by Member States in accordance with Article 11(3). For each such package, one single framework contract for the whole bundle is possible.***

Or. en

Amendment 100

Proposal for a regulation Article 31 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Within the European framework for capacity management provided for in Article 6 and following the publication of the capacity strategy in accordance with Article 16, requests for framework agreements can be submitted following a deadline set by ENIM in consultation with EOSP and including consultative input also from ministries. Requests for framework agreements submitted until this deadline shall be prioritised over requests for framework agreements submitted later. The European framework for capacity management shall provide prioritisation criteria for the event of two or more applicants submitting requests for framework agreements concerning the same capacity according to the capacity strategy.

Or. en

Amendment 101

Proposal for a regulation Article 31 – paragraph 4

Text proposed by the Commission

Amendment

4. Framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services. For this purpose, infrastructure managers shall set the maximum shares of total capacity that can be allocated through framework agreements and include these in the network statement.

4. Framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services. For this purpose, infrastructure managers shall set the maximum shares of total capacity that can be allocated through framework agreements and include these in the network statement. **Infrastructure managers of neighbouring countries who have concluded cross-border framework agreements shall align these thresholds**

and make them as consistent as possible.

Or. en

Amendment 102

Proposal for a regulation Article 31 – paragraph 5

Text proposed by the Commission

5. Framework agreements shall allow for the amendment of their terms to enable ***better use*** to be made of the railway infrastructure, without prejudice to Article 39 and Article 40.

Amendment

5. Framework agreements shall allow for the amendment of their terms to enable ***reaching the modal share indicated in the Green Deal and the Sustainable and Smart Mobility Strategy*** to be made of the railway infrastructure, without prejudice to Article 39 and Article 40.

Or. en

Amendment 103

Proposal for a regulation Article 31 – paragraph 11

Text proposed by the Commission

11. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the ENRRB, the Commission ***may*** adopt ***an implementing*** act setting out the details of the procedure and criteria to be followed for the uniform application of this Article and of Article 33. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).***

Amendment

11. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the ENRRB, the Commission ***shall*** adopt ***a delegated*** act ***in accordance with Article 71*** setting out the details of the procedure and criteria to be followed for the uniform application of this Article and of Article 33.

Or. en

Justification

The implementing acts may not be properly framed.

Amendment 104

Proposal for a regulation Article 32 – paragraph 3

Text proposed by the Commission

3. In the event of a conflict between two or more capacity requests, the infrastructure managers shall first attempt to resolve the conflict through the consensual consultation mechanism referred to in Article 36.

Amendment

3. In the event of a conflict between two or more capacity requests, ***or in the event that requests do not comply with the capacity supply plan***, the infrastructure managers shall first attempt to resolve the conflict through the consensual consultation mechanism referred to in Article 36.

Or. en

Justification

By adding this it is made clear that requests not fitting to the capacity supply plan have to be discussed and that refusing without any further explanation is impossible.

Amendment 105

Proposal for a regulation Article 32 – paragraph 5 – subparagraph 3

Text proposed by the Commission

When refusing requests not consistent with the capacity supply plan, the infrastructure manager shall, without delay, inform the applicant concerned of its intention to refuse a request. The latter shall have the right to lodge a complaint with the regulatory body.

Amendment

When refusing requests not consistent with the capacity supply plan, the infrastructure manager shall, without delay, inform the applicant concerned of its intention to refuse a request ***and shall, if capacity is available, provide an alternative solution which complies as much as possible with applicants' requirements***. The latter shall have the right to lodge a complaint with the regulatory body.

Or. en

Amendment 106

Proposal for a regulation Article 33 – paragraph 3

Text proposed by the Commission

3. Without prejudice to Article 18, infrastructure managers shall allocate capacity reserved for the rolling planning allocation process on the basis of the allocation principle set out in section 5, point 2 of Annex I.

Amendment

3. Without prejudice to Article 18, infrastructure managers shall allocate capacity reserved for the rolling planning allocation process on the basis of the allocation principle set out in section 6, point 2 of Annex I.

Or. en

Amendment 107

Proposal for a regulation Article 35 – paragraph 4 – subparagraph 1

Text proposed by the Commission

If the scheduling of a capacity restriction resulting from infrastructure works requires a change to an allocated capacity right within the meaning of Article 39, the infrastructure manager shall do its utmost to provide the applicants concerned with alternative capacity.

Amendment

If the scheduling of a capacity restriction resulting from infrastructure works requires a change to an allocated capacity right within the meaning of Article 39, the infrastructure manager **concerned** shall do its utmost to provide the applicants concerned with alternative capacity.

Or. en

Amendment 108

Proposal for a regulation Article 35 – paragraph 6

Text proposed by the Commission

6. Infrastructure managers shall include all capacity restrictions resulting from infrastructure works in the capacity model and in the capacity supply plan, irrespective of the moment when they are

Amendment

6. Infrastructure managers shall include all capacity restrictions, **in accordance with Annex I point 1 and 3. I**, resulting from infrastructure works in the capacity model and in the capacity

scheduled.

supply plan, irrespective of the moment when they are scheduled.

Or. en

Amendment 109

Proposal for a regulation Article 36 – paragraph 1

Text proposed by the Commission

1. Where in the context of simultaneous capacity allocation the infrastructure manager encounters conflicts between different requests for infrastructure capacity, it shall attempt to ensure the best possible matching of all requirements, through coordination of the requests.

Amendment

1. Where in the context of simultaneous capacity allocation the infrastructure manager encounters conflicts between different requests for infrastructure capacity, it shall attempt to ensure the best possible matching ***in terms of the Green Deal objectives and decarbonisation targets*** of all requirements, through coordination of the requests.

Or. en

Amendment 110

Proposal for a regulation Article 36 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For this purpose, the infrastructure manager shall distinguish in the context of conflict resolution between:

(a) conflicts about the same pre-planned capacity; and

(b) conflicts between two requests that both are not consistent with the strategic capacity planning.

In line with the provisions about strategic capacity planning, the strategic timetabling should be superior to other

criteria and mechanisms of conflict resolution.

Or. en

Amendment 111

Proposal for a regulation Article 36 – paragraph 6

Text proposed by the Commission

6. Without prejudice to the existing appeal procedures and to Article 56 of Directive 2012/34/EU, in the event of disputes relating to the allocation of infrastructure capacity, Member States shall ensure that a dispute resolution system is made available in order to resolve such disputes promptly. That system shall be set out in the network statement for capacity requests *for domestic rail services*. 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 Article 56 of Directive 2012/34/EU, in the event of disputes relating to the allocation of infrastructure capacity *and following a proposal by ENRRB*, Member States shall ensure that a dispute resolution system is made available *at common timelines* in order to resolve such disputes promptly. That system shall be set out in the *European framework for capacity management referred to in Article 6 and published in the* network statement for capacity requests. If this system is applied, a decision shall be reached within a time limit of 10 working days.

Or. en

Amendment 112

Proposal for a regulation Article 37 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. In this respect, the ENRRB shall compile guidelines to ensure the harmonised application of Article 3.

Or. en

Amendment 113

Proposal for a regulation

Article 39 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Infrastructure managers may change capacity rights allocated to an applicant on their own initiative only in ***accordance with this Regulation***. Applicants may request changes to allocated capacity at all times. A cancellation shall be considered a specific type of change.

Amendment

Infrastructure managers may change capacity rights allocated to an applicant on their own initiative only in ***cases of capacity restrictions, network disruptions and crisis situations***. Applicants may request changes to allocated capacity at all times. A cancellation shall be considered a specific type of change.

Or. en

Amendment 114

Proposal for a regulation

Article 39 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Infrastructure managers may indicate different deadlines for the allocation of capacity rights on a single network and the allocation of multi-network capacity rights. Infrastructure managers shall provide information on the time necessary to construct a train path in the network statement. This time shall not be longer than the deadlines indicated in section 8 of Annex I.

Amendment

Infrastructure managers shall provide information on the time necessary to construct a train path in the network statement. This time shall not be longer than the deadlines indicated in section 8 of Annex I.

Or. en

Justification

The separations of domestic and international capacity will not contribute to a balanced optimisation across Europe.

Amendment 115

Proposal for a regulation

Article 39 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The infrastructure manager shall offer alternative capacity rights to the applicant within the deadlines set out in section 8 of Annex I. Where ***this is not possible***, the infrastructure manager shall provide the applicant with relevant information enabling the applicant to place a new request for infrastructure capacity. Where relevant, that information shall make reference to the capacity supply plan referred to in Article 18 and the contingency planning referred to in Article 19.

Amendment

The infrastructure manager shall offer alternative capacity rights to the applicant within the deadlines set out in section 8 of Annex I. Where ***no alternative offer is feasible in accordance with Article 32 (5) and Article 33 (4)***, the infrastructure manager(s) shall provide the applicant with relevant information enabling the applicant to place a new request for infrastructure capacity. Where relevant, that information shall make reference to the capacity supply plan referred to in Article 18 and the contingency planning referred to in Article 19.

Or. en

Amendment 116

Proposal for a regulation

Article 39 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. In the case of integrated clock-face timetables, the allocated train paths shall correspond to the capacity specification in the framework agreement and any change shall be considered to be a major change if it leads to the loss of interchange connections.

Or. en

Amendment 117

Proposal for a regulation

Article 40 – paragraph 2

Text proposed by the Commission

2. The compensation referred to in paragraph 1 shall not be due in cases ***of force majeure***.

Amendment

2. The compensation referred to in paragraph 1 shall not be due in cases ***where an unforeseeable, exceptional and unprovoked event outside the control of one or more infrastructure managers, which have destructive consequences on their infrastructure, and where it is not possible to offer an alternative, including a cross border alternative.***

Or. en

Amendment 118

Proposal for a regulation

Article 40 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Following a proposal by the infrastructure manager and after consulting applicants ***and potential applicants***, the regulatory body shall set the levels of compensation to be paid by the infrastructure manager. The infrastructure manager shall publish that information in the network statement.

Amendment

Following a proposal by the infrastructure manager and after consulting applicants the regulatory body shall set the levels of compensation to be paid by the infrastructure manager. The infrastructure manager shall publish that information in the network statement.

Or. en

Amendment 119

Proposal for a regulation

Article 40 – paragraph 7

Text proposed by the Commission

7. The Commission ***may*** adopt ***implementing*** acts setting out the conditions giving rise to the payment of compensations, the categorisation of changes to capacity rights and the methodologies to set the levels of

Amendment

7. The Commission ***shall*** adopt ***delegated*** acts ***in accordance with Article 71*** setting out the conditions giving rise to the payment of compensations, the categorisation of changes to capacity rights and the methodologies to set the levels of

compensation. *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).*

compensation.

Or. en

Justification

The implementing acts may not be properly framed.

Amendment 120

Proposal for a regulation Article 41 – paragraph 3

Text proposed by the Commission

3. When rescheduling, infrastructure managers shall not unilaterally change or cancel existing capacity rights for the purpose of managing disruptions. However, based on the experience of regulatory bodies, infrastructure managers and railway undertakings and on the activities of ENIM and the ENRRB, the Commission *may* adopt *an implementing act* setting out the criteria and procedures for rescheduling, including unilateral changes to allocated capacity rights by infrastructure managers for the purpose of managing network disruptions. *That implementing act shall be adopted in accordance with the examination procedure referred to in Article 72(3).*

Amendment

3. When rescheduling, infrastructure managers shall not unilaterally change or cancel existing capacity rights for the purpose of managing disruptions. However, based on the experience of regulatory bodies, infrastructure managers and railway undertakings and on the activities of ENIM and the ENRRB, the Commission *shall* adopt *a delegated act in accordance with Article 71* setting out the criteria and procedures for rescheduling, including unilateral changes to allocated capacity rights by infrastructure managers for the purpose of managing network disruptions.

Or. en

Justification

The implementing acts may not be properly framed.

Amendment 121

Proposal for a regulation Article 41 – paragraph 4

Text proposed by the Commission

4. Infrastructure managers and applicants **may conclude, on a voluntary basis, agreements** providing for a replacement of certain capacity rights in the event of a network disruption. **Such agreements** shall be mentioned in the contingency plan referred to in Article 19.

Amendment

4. Infrastructure managers and applicants **shall, together, define measures** providing for a replacement of certain capacity rights in the event of a network disruption. **These measures** shall be mentioned in the contingency plan referred to in Article 19.

Or. en

Amendment 122

Proposal for a regulation Article 42 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The special rules and procedures referred to in paragraph 2 shall be published infrastructure managers, shall be freely accessible and shall be notified to the Commission.

Or. en

Amendment 123

Proposal for a regulation Article 42 – paragraph 3 – subparagraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) be allowed to make cross-company dispositional decisions, provided that such decisions have been previously agreed for specific scenarios.

Or. en

Amendment 124

Proposal for a regulation Article 43 – paragraph 3

Text proposed by the Commission

3. In the event of a disruption to train movements caused by technical failure or accident, the infrastructure manager shall take all necessary steps to restore the situation to normal. To that end, it shall implement a contingency plan in accordance with Article 19. In the event of a disturbance which has a potential impact on cross-border traffic, the infrastructure managers concerned shall cooperate with each other to restore the cross-border traffic to normal in accordance with the European framework for the coordination of traffic, disruption and crisis management referred to in Article 44.

Amendment

3. In the event of a disruption to train movements caused by technical failure or accident, the infrastructure manager shall, ***without delay***, take all necessary steps to restore the situation to normal. To that end, it shall implement a contingency plan in accordance with Article 19. In the event of a disturbance which has a potential impact on cross-border traffic, the infrastructure managers concerned shall cooperate with each other to restore the cross-border traffic to normal in accordance with the European framework for the coordination of traffic, disruption and crisis management referred to in Article 44.

Or. en

Amendment 125

Proposal for a regulation Article 43 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Deviations should only be allowed on reasonable grounds and should be approved by ENRRB.

Or. en

Amendment 126

Proposal for a regulation Article 43 – paragraph 5 – subparagraph 1

Text proposed by the Commission

In cases of force majeure, and, where absolutely necessary, on account of an incident making the infrastructure temporarily unusable, allocated capacity rights may be withdrawn without warning for as long as is necessary to repair the system.

Amendment

In cases of force majeure, and, where absolutely necessary, on account of an incident making the infrastructure temporarily unusable, allocated capacity rights may be withdrawn without warning for as long as is necessary to repair the system ***whilst at the same time making all efforts to provide possible alternatives.***

Or. en

Amendment 127

**Proposal for a regulation
Article 43 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5a. In the case of a capacity withdrawal, infrastructure managers shall inform railway undertakings closely on their time management, on progress of repairs and on possible alternatives to their allocated capacity.

Or. en

Amendment 128

**Proposal for a regulation
Article 45 – paragraph 2 – point c**

Text proposed by the Commission

Amendment

(c) an efficient exchange of up-to-date and relevant information between infrastructure managers, applicants, railway undertakings and other operational stakeholders, as well as any EU-level relevant crisis management governance structures as appropriate, including in accordance with Article 62.

(c) an efficient exchange of up-to-date and relevant information between infrastructure managers, applicants, railway undertakings and other operational stakeholders, as well as any EU-level relevant crisis management governance structures as appropriate, including in accordance with Article 62. ***This***

coordination on the Union level should take place between task forces within infrastructure managers and include a consultation with ENRRB; these task forces are to interact and coordinate between them.

Or. en

Amendment 129

Proposal for a regulation Article 49 – paragraph 2

Text proposed by the Commission

2. For this purpose, infrastructure managers shall **set out** their own performance targets in the plan referred to in Article 8(3) of Directive 2012/34/EU, taking into account any objectives set out in the contractual agreements referred to in Article 30 of that Directive. They shall put in place and perform procedures to monitor and report on progress towards the achievement of the targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance. These procedures shall take into account the European framework for performance review referred to in Article 50 of this Regulation. Infrastructure managers shall explain in the network statement the reason for any deviation from the common procedures established in the European framework for performance review.

Amendment

2. For this purpose, infrastructure managers shall **propose** their own performance targets in the plan referred to in Article 8(3) of Directive 2012/34/EU, taking into account any objectives set out in the contractual agreements referred to in Article 30 of that Directive. ***The infrastructure managers shall consult regulators, as well as their national ministries and the Commission in order to assure that the targets set are consensually accepted as consistent with the policies and ambitions of the Union.*** They shall put in place and perform procedures to monitor and report on progress towards the achievement of the targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance. These procedures shall take into account the European framework for performance review referred to in Article 50 of this Regulation. Infrastructure managers shall explain in the network statement the reason for any deviation from the common procedures established in the European framework for performance review. ***Deviations should only be allowed on reasonable grounds and should be***

approved by ENRRB.

Or. en

Amendment 130

Proposal for a regulation

Article 49 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. ENIM shall publish the performance review and the data that was used for it.

Or. en

Amendment 131

Proposal for a regulation

Article 50 – paragraph 1

Text proposed by the Commission

Amendment

1. **ENIM** shall set up and implement by [12 months after the entry into force of this Regulation] a European framework for the review of performance. This framework shall take into account in particular the principles defined in Article 2(3), Article 8(4), Article 42(3) and the operational requirements, the performance objectives and target values set out in [Article 18 of the new TEN-T Regulation].

1. **ENRRB** shall set up and implement by [12 months after the entry into force of this Regulation] a European framework for the review of performance. This framework shall take into account in particular the principles defined in Article 2(3), Article 8(4), Article 42(3) and the operational requirements, the performance objectives and target values set out in [Article 18 of the new TEN-T Regulation].

Or. en

Justification

There is a need for separation of power between ENIM and the body carrying out performance reviews. The role of performance review should lie with ENRRB.

Amendment 132

Proposal for a regulation Article 50 – paragraph 3

Text proposed by the Commission

3. On the basis of paragraph 2, point (d), **ENIM** shall regularly review the European framework for performance review and the results of its implementation and shall propose appropriate changes to the framework.

Amendment

3. On the basis of paragraph 2, point (d), **ENRRB** shall regularly review the European framework for performance review and the results of its implementation and shall propose appropriate changes to the framework.

Or. en

Amendment 133

Proposal for a regulation Article 50 – paragraph 5

Text proposed by the Commission

5. The Commission may adopt implementing acts, setting out **detailed rules on** the elements in paragraph 2, points (b) to (d), in accordance with the advisory procedure referred to in Article 72(2). In doing so, the Commission shall take into account the work done by **ENIM** in accordance with paragraph 3 and any recommendations of the performance review body.

Amendment

5. The Commission may adopt implementing acts, setting out **uniform conditions for the application of** the elements in paragraph 2, points (b) to (d), in accordance with the advisory procedure referred to in Article 72(2). In doing so, the Commission shall take into account the work done by **ENRRB** in accordance with paragraph 3 and any recommendations of the performance review body.

Or. en

Justification

Clarification that the nature of the implementing acts only relates to executing and implementing powers, not supplementing powers.

Amendment 134

Proposal for a regulation Article 51 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 15 of Directive 2012/34/EU and Article 3 of Commission Implementing Regulation (EU) 2015/1100²³, **ENIM** shall prepare and publish by [24 months after the entry into force of this Regulation] a European performance review report on the basis of the European framework for performance review referred to in Article 50 of this Regulation and publish it every year.

²³ Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015, p. 1).

Amendment

1. Without prejudice to Article 15 of Directive 2012/34/EU and Article 3 of Commission Implementing Regulation (EU) 2015/1100²³, **ENRRB** shall prepare and publish by [24 months after the entry into force of this Regulation] a European performance review report on the basis of the European framework for performance review referred to in Article 50 of this Regulation and publish it every year.

²³ Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015, p. 1).

Or. en

Amendment 135

Proposal for a regulation
Article 51 – paragraph 2

Text proposed by the Commission

2. The Performance Review Body shall prepare a self-standing section of the report providing its assessment of the performance of rail infrastructure services and rail transport services, recommendations on performance issues ***to be addressed with priority and recommendations on*** measures to improve performance.

Amendment

2. The Performance Review Body shall prepare a self-standing section of the report providing its assessment of the performance of rail infrastructure services and rail transport services, ***disagreements raised and*** recommendations on performance issues, ***including*** measures to improve performance, ***shall be included within the next upcoming programme in accordance with Article 55(8).***

Or. en

Justification

The performance review board should also supervise the work of ENIM, not only the performance of traffics and make suggestions for improvement.

Amendment 136

Proposal for a regulation Article 51 – paragraph 4

Text proposed by the Commission

4. The performance review report shall include a dedicated section on the performance of coordination between infrastructure managers in accordance with Article 53 and on the consultation mechanism referred to in Article 54 of this Regulation.

Amendment

4. The performance review report shall include a dedicated section on the performance of coordination between infrastructure managers in accordance with Article 53 and on the consultation mechanism referred to in Article 54 of this Regulation. ***The performance review body shall provide recommendations on measures to improve coordination between infrastructure managers and also between infrastructure managers and consulted parties as referred to in Article 55a(new).***

Or. en

Amendment 137

Proposal for a regulation Article 52 – paragraph 1

Text proposed by the Commission

1. In accordance with the procedure referred to in Article 73(3), the Commission ***may*** set up or designate an impartial and competent body to act as a Performance Review Body.

Amendment

1. In accordance with the procedure referred to in Article 72(3), the Commission ***shall*** set up or designate an impartial and competent body to act as a Performance Review Body.

Or. en

Amendment 138

Proposal for a regulation Article 53 – paragraph 1

Text proposed by the Commission

1. When reference is made to this Article, infrastructure managers shall coordinate between themselves and with other relevant stakeholders in relation to the responsibilities and tasks entrusted to them in this Regulation.

Amendment

1. When reference is made to this Article, infrastructure managers shall coordinate between themselves and with other relevant stakeholders ***as referred to in Article 55a (new)***, in relation to the responsibilities and tasks entrusted to them in this Regulation.

Or. en

Amendment 139

Proposal for a regulation

Article 53 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Member States and the public service authorities can extend the cover to other lines.

Or. en

Amendment 140

Proposal for a regulation

Article 54 – paragraph 1

Text proposed by the Commission

Amendment

1. ENIM shall prepare, adopt and implement guidelines to ensure appropriate and regular consultation of interested parties and include them in the European framework for capacity management referred to in Article 6, the European framework for the cross-border coordination of traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50. The

1. ENIM shall prepare, adopt and implement guidelines to ensure appropriate and regular consultation of interested parties, ***including representatives from ERA and the Member States, as well as the representative bodies referred to in Article 38(4) of Regulation (EU) 2016/796 of the European Parliament and of the Council***¹ and include them in the European framework for capacity management referred to in Article 6, the European framework for the cross-border

process shall be developed and implemented with the support of the Network Coordinator and with the involvement of the designated focal points of infrastructure managers referred to in Article 60.

coordination of traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50. The process shall be developed and implemented with the support of the Network Coordinator and with the involvement of the designated focal points of infrastructure managers referred to in Article 60.

¹ Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

Or. en

Amendment 141

Proposal for a regulation Article 54 – paragraph 2

Text proposed by the Commission

2. Where ENIM adopts an opinion or a recommendation likely to have an impact on railway undertakings, other applicants, other operational stakeholders and interested parties, it shall publish a draft for the consultation of concerned parties. The concerned parties shall be given an appropriate amount of time to provide feedback on the draft decision. Member State authorities shall be involved when required.

Amendment

2. Where ENIM adopts an opinion or a recommendation likely to have an impact on railway undertakings, other applicants, ***advisory groups as established in Article 55a (new)***, other operational stakeholders and interested parties, ***including representatives from ERA and the Member States, as well as the representative bodies referred to in Article 38(4) of Regulation (EU) 2016/796***, it shall publish a draft for the consultation of concerned parties. The concerned parties shall be given an appropriate amount of time to provide feedback on the draft decision. Member State authorities shall be involved when required.

Or. en

Amendment 142

Proposal for a regulation Article 54 – paragraph 3

Text proposed by the Commission

3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall provide *the* reasons for doing so.

Amendment

3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall *justify its* reasons for doing so.

Or. en

Amendment 143

Proposal for a regulation Article 55 – paragraph 2

Text proposed by the Commission

2. All rail infrastructure managers, which are responsible for lines that form part of the core and extended core TEN-T network, referred to in [Article 6 of and Annex I to new TEN-T Regulation], shall be members of ENIM. They shall appoint a representative and an alternate.

Amendment

2. All rail infrastructure managers, which are responsible for lines that form part of the core and extended core TEN-T network, referred to in [Article 6 of and Annex I to new TEN-T Regulation], shall be members of ENIM. They shall appoint a representative and an alternate. ***Rail infrastructure managers and allocation bodies of third countries which are responsible for lines that form part of the core and extended core TEN-T network shall be allowed to join ENIM.***

Or. en

Amendment 144

Proposal for a regulation Article 55 – paragraph 8

Text proposed by the Commission

8. ENIM shall define its work programme. The work programme shall cover at least a period of two years. ENIM shall consult applicants and other operational stakeholders through the consultation mechanism referred to in Article 54 on the draft work programme. In addition, it shall consult the European Commission, the European Union Agency for Railways and the Europe's Rail Joint Undertaking and, as appropriate, other stakeholders

Amendment

8. ENIM shall define its work programme. The work programme shall cover at least a period of two years. ENIM shall consult ***advisory groups as established in Article 55 a (new)*** applicants and other operational stakeholders through the consultation mechanism referred to in Article 54 on the draft work programme. In addition, it shall consult the European Commission, the European Union Agency for Railways and the Europe's Rail Joint Undertaking and, as appropriate, other stakeholders

Or. en

Amendment 145

Proposal for a regulation Article 55 a (new)

Text proposed by the Commission

Amendment

Article 55a

Consultative bodies to ENIM

- 1. ENIM shall set up and consult with the European Operational Stakeholder Platform (EOSP) that groups all operational stakeholders as defined in Article 4 in the development of the European Frameworks for Capacity Management, Traffic Management and Performance Management. They may issue an opinion on any proposal by ENIM which has consequences for these undertakings. It may also issue own-initiative opinions.***
- 2. ENIM shall set up an advisory group made up of operators of service***

facilities and terminals linking to the extended TEN-T Network including, where necessary, multimodal capacity stakeholder like sea and inland waterway ports and owners of other rail-related service facilities. This advisory group may issue an opinion on any proposal by ENIM which has direct consequences for investment and the management of terminals. It may also issue own-initiative opinions.

3. ENIM may invite rail industry to attend consultative groups and discussions to enable better information and preparedness.

4. ENIM shall draw up and publish guidelines for coordinating the consultation with the above groups and shall publish on its website an overview of the activities undertaken pursuant to this article.

5. Consultations under this Article shall be without prejudice to the right of applicants to appeal decisions by ENIM.

Or. en

Amendment 146

Proposal for a regulation Article 56 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) adopt the European framework for performance review, referred to in Article 50;

deleted

Or. en

Justification

This responsibility now lies with ENRRB.

Amendment 147

Proposal for a regulation Article 57 – paragraph 2

Text proposed by the Commission

2. ENIM shall invite the Commission, including the European Coordinators and, where relevant, representatives of the Member States, to its meetings with a view to discuss issues related to the development of rail infrastructure and to ensure cooperation with the European Coordinators, as outlined in [new TEN-T Regulation]. ENIM shall provide the information required under [Article 53, third subparagraph of the new TEN-T Regulation].

Amendment

2. ENIM shall invite the Commission, including the European Coordinators and, where relevant, representatives of the Member States, ***representatives from ERA as well as the representative bodies referred to in Article 38(4) of Regulation (EU) 2016/796***, to its meetings with a view to discuss issues related to the development of rail infrastructure and to ensure cooperation with the European Coordinators, as outlined in [new TEN-T Regulation]. ENIM shall provide the information required under [Article 53, third subparagraph of the new TEN-T Regulation].

Or. en

Amendment 148

Proposal for a regulation Article 57 a (new)

Text proposed by the Commission

Amendment

Article 57a

European Rail International Capacity Allocation body (ERICA)

1. ERICA will fulfil the following tasks:

(a) contribute to the preparation of the European framework for capacity management referred to in Article 6 with the support of the Network coordinator referred to in Article 58 and 59, the European framework for the prioritisation criteria referred to in Article 31 (3a) (new), coordination of cross-border traffic management, disruption

management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50;

(b) contribute to the coordination between infrastructure managers concerning strategic capacity planning by elaborating multi-network timetable concepts ensuring competitive multi-network long-distance train paths;

(c) contribute to the operational coordination between infrastructure managers with the support of the Network coordinator referred to in Article 58 and 59, in accordance with Article 53;

(d) identify rules, procedures and tools within the scope of this Regulation and adopted at national or infrastructure manager level which create obstacles for multi-network rail services, as set out in this Regulation, with the support of the Network coordinator referred to in Article 58 and 59 and including for framework agreements as referred to in Article 31;

(e) act as a contact point on behalf of infrastructure managers for enquiries related to capacity planning and allocation, in particular regarding potential requests for capacity, for information or contact points related to rail incidents and temporary capacity restrictions;

(f) act as a first point of contact for stakeholders outside the rail sector interested in using rail services, providing contacts to relevant actors at infrastructure managers and other operational stakeholders;

(g) act as a contact point on behalf of ENIM for applicants and other operational stakeholders on issues not explicitly covered by this Regulation, in particular the launch or change of cross-border rail transport services or organising support for ad hoc activities, in particular to address the crisis situations

referred to in Article 47.

(h) provide existing and new shared B2B-services to infrastructure managers and railway undertakings to improve rail services and boost trans-European rail traffic;

(i) identify infrastructure enhancement needs on a multi-network level as a basis for future infrastructure development and funding within TEN-T.

2. The Commission shall support to establish an independent European entity in charge of international capacity allocation by 2029.

3. This European international rail capacity allocator (ERICA) shall be supported by an advisory network coordinator as referred to in Article 58 and 59.

Or. en

Justification

To ensure a seamless European rail network, a new European Rail International Capacity Allocation body (ERICA) should be established. ERICA should be supported by the advisory network coordinator described in Article 58 and 59. The most beneficial tasks to enhance cross-border rail traffic would be the involvement in the development of capacity strategies and international framework agreements.

Amendment 149

Proposal for a regulation

Article 59 – paragraph 1 – point b

Text proposed by the Commission

(b) contribute to the preparation of the European framework for capacity management referred to in Article 6, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance

Amendment

(b) contribute ***in an advisory function to ERICA, established in Article 57a (new)*** to the preparation of the European framework for capacity management referred to in Article 6, the European framework for the coordination of cross-border traffic management, disruption management and crisis management

review referred to in Article 50;

referred to in Article 44 and the European framework for performance review referred to in Article 50;

Or. en

Amendment 150

Proposal for a regulation Article 59 – paragraph 1 – point c

Text proposed by the Commission

(c) contribute to the operational coordination between infrastructure managers in accordance with Article 53;

Amendment

(c) contribute ***in an advisory function to ERICA, established in Article 57 a (new)*** to the operational coordination between infrastructure managers in accordance with Article 53;

Or. en

Amendment 151

Proposal for a regulation Article 59 – paragraph 1 – point d

Text proposed by the Commission

(d) identify rules, procedures and tools within the scope of this Regulation and adopted at national or infrastructure manager level which create obstacles for multi-network rail services, as set out in this Regulation;

Amendment

(d) identify rules, procedures and tools within the scope of this Regulation and adopted at national or infrastructure manager level which create obstacles for multi-network rail services, as set out in this Regulation ***in an advisory function to ERICA, established in Article 57a (new)***;

Or. en

Amendment 152

Proposal for a regulation Article 59 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) act as a contact point on behalf of infrastructure managers for enquiries related to capacity planning and allocation, in particular regarding potential requests for capacity, for information or contact points related to rail incidents and temporary capacity restrictions; *deleted*

Or. en

Amendment 153

Proposal for a regulation Article 59 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) act as a first point of contact for stakeholders outside the rail sector interested in using rail services, providing contacts to relevant actors at infrastructure managers and other operational stakeholders; *deleted*

Or. en

Amendment 154

Proposal for a regulation Article 59 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) act as a contact point on behalf of ENIM for applicants and other operational stakeholders on issues not explicitly covered by this Regulation, in particular the launch or change of cross-border rail transport services or organising support for ad hoc activities, in particular to address the crisis situations *deleted*

referred to in Article 47.

Or. en

Amendment 155

Proposal for a regulation Article 62 – paragraph 1

Text proposed by the Commission

1. Infrastructure managers shall ensure that capacity management and traffic management processes within the scope of this Regulation are implemented by means of digital tools and digital services.

Amendment

1. Infrastructure managers shall ensure that capacity management and traffic management processes within the scope of this Regulation are implemented by means of digital tools and digital services. ***National capacity management tools shall only remain allowed if they do not undermine the capacity planning and allocation process outlined in Section 3 of this Regulation.***

Or. en

Amendment 156

Proposal for a regulation Article 62 – paragraph 2 – point a

Text proposed by the Commission

(a) improve the performance and the quality, including full interoperability, of the services infrastructure managers provide to applicants;

Amendment

(a) improve the performance and the quality, including full interoperability, of the services infrastructure managers provide to applicants; ***This shall include a tool for the digitalisation of construction sites to be used by the infrastructure manager mandatorily for the TEN-T Core and Extended Core network as defined in [new TEN-T Regulation], as well as the creation of an interoperable digital illustration of every train running on the European rail network;***

Or. en

Amendment 157

Proposal for a regulation Article 62 – paragraph 2 – point b

Text proposed by the Commission

(b) improve the transparency of rail capacity management and traffic management throughout all their phases;

Amendment

(b) improve the transparency of rail capacity management and traffic management throughout all their phases, ***including digital and real time solutions which shall be gradually elaborated with relevant stakeholders in line with the Green Deal and the EU's climate targets;***

Or. en

Amendment 158

Proposal for a regulation Article 62 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. To comply with Article 62(1) to (5), public funding, including from the next Connecting Europe Facility to the infrastructure manager and railway undertakings must be sufficient to ensure a timely, cross-border harmonised and interoperable implementation of digital tools and services.

Or. en

Justification

Public funding is crucial to facilitate timely, cross-border harmonised and interoperable implementation of the timetable redesign (TTR) project and other digital tools and services.

Amendment 159

Proposal for a regulation Article 62 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. *As ERA is the European system authority for telematics applications provided for in Article 23 of Regulation (EU) 2016/796, it shall be closely involved in the development and implementation for the tools needed in Article 62.*

Or. en

Amendment 160

Proposal for a regulation Article 63 – paragraph 2

Text proposed by the Commission

Amendment

2. A railway undertaking, an ***applicant, a potential*** applicant, a national, regional or local authority responsible for transport shall have the right to appeal to the regulatory body in accordance with article 56 of Directive 2012/34/EU if it believes it has been unfairly treated, discriminated against or in any other way aggrieved by the infrastructure manager when the latter carried out the activities set out in Chapters II, III, IV and V of this Regulation (Management of infrastructure; Traffic and crisis management; Performance review and management; European network for coordination).

2. A railway undertaking, an applicant, a national, regional or local authority responsible for transport shall have the right to appeal to the regulatory body in accordance with article 56 of Directive 2012/34/EU if it believes it has been unfairly treated, discriminated against or in any other way aggrieved by the infrastructure manager when the latter carried out the activities set out in Chapters II, III, IV and V of this Regulation (Management of infrastructure; Traffic and crisis management; Performance review and management; European network for coordination).

Or. en

Amendment 161

Proposal for a regulation Article 64 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

For the purpose of fulfilling their

For the purpose of fulfilling their

responsibilities under this Regulation, the regulatory bodies shall cooperate in the framework of the ENRRB referred to in Article 57(1) of Directive 2012/34/EU, including through joint consultations and investigations, by adopting opinions or recommendations or through other relevant activities. Regulatory bodies shall provide all the required information to the ENRRB.

responsibilities under this Regulation, the regulatory bodies shall cooperate in the framework of the ENRRB referred to in Article 57(1) of Directive 2012/34/EU, including through joint consultations and investigations, by adopting opinions or recommendations or through other relevant activities. Regulatory bodies shall provide all the required information to the ENRRB **and take into account the opinions and recommendations adopted by ENRRB.**

Or. en

Amendment 162

Proposal for a regulation Article 64 – paragraph 5

Text proposed by the Commission

5. Where a regulatory body adopts a decision, which departs from any relevant opinion or recommendation of the ENRRB or where it refuses to adopt a decision, it shall provide to the ENRRB an explanation laying out the differences and its reasoning for not following the opinions or recommendations of the ENRRB.

Amendment

5. Where a regulatory body adopts a decision, which departs from any relevant opinion or recommendation of the ENRRB or where it refuses to adopt a decision, it shall provide to the ENRRB an explanation laying out the differences and its reasoning for not following the opinions or recommendations of the ENRRB **and include the relevant explanation in its decision.**

Or. en

Amendment 163

Proposal for a regulation Article 64 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. ENRRB shall ensure that its structure, methods of operation and all relevant information about its work are made publicly available on its website. It

shall include contact details of working groups.

All opinions and recommendations of ENRRB shall be made public by the Secretariat of the ENRRB.

Or. en

Amendment 164

Proposal for a regulation Article 69 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The Board shall meet in regular intervals. It shall elect a Chair from among its members with a two-thirds majority of its members and shall serve a term of one year.

Or. en

Amendment 165

Proposal for a regulation Article 69 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall *chair* the meetings of the Board. It shall have no voting right.

2. The Commission shall *attend, support and facilitate coordination during* the meetings of the Board. It shall have no voting right.

Or. en

Amendment 166

Proposal for a regulation Article 70 – paragraph 3

Text proposed by the Commission

3. The working groups shall be open to the participation of experts from rail regulatory bodies, the Commission, operational stakeholders and, **where relevant, from** other public or private bodies.

Amendment

3. The working groups shall be open to the participation of experts from rail regulatory bodies, the Commission **and, where relevant, from** operational stakeholders and other public or private bodies.

Or. en

Amendment 167

**Proposal for a regulation
Article 70 – paragraph 5**

Text proposed by the Commission

5. The Board or the Chairs of the working groups may invite individual experts recognised as competent in the relevant field to participate in the working group meetings if necessary on a case-by-case basis.

Amendment

5. The Board or the Chairs of the working groups may invite **experts from rail regulatory bodies, the Commission, ERA, operational stakeholders and, where relevant, from other public or private bodies as well as** individual experts recognised as competent in the relevant field to participate in the working group meetings if necessary on a case-by-case basis.

Or. en

Amendment 168

**Proposal for a regulation
Article 71 – paragraph 2 a (new)**

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 10(8), Article 11(2), Article 21(9), Article 38(3), Article 39(9), Article 46(6), Article 48(3) and Article 53(5) shall be conferred on the Commission for a period of five years from

Amendment

2. The power to adopt delegated acts referred to in **Article 7(3), Article 8(4) and(7)**, Article 10(8), Article 11(2), **Article 19(5)**, Article 21(9), Article **31(11)**, Article 38(3), Article 39(9), **Article 40(7), Article 41(3)** Article 46(6), Article 48(3) and

[1 January 2026]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Article 53(5) shall be conferred on the Commission for a period of five years from [1 January 2026]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Or. en

Amendment 169

Proposal for a regulation

Article 74 – paragraph 1 – point c

Text proposed by the Commission

(c) points (20), (22), (23), (27) and (28) are deleted;

Amendment

(c) **In Article 3**, points (20), (22), (23), (27) and (28) are deleted;

Or. en

Amendment 170

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) Articles 1, 2 and 3, Chapter II, with the exception of Article 9(1) and (2) and **Article 27(4)**, and Chapter III, with the exception of Article 48, of this Regulation shall apply only to activities and tasks carried out in relation to the working timetables entering into force after [8 December 2029];

Amendment

(a) Articles 1, 2 and 3, Chapter II, with the exception of Article 9(1) and (2) and **Articles 26, 27, 28, 31, 39 and 50**, and Chapter III, with the exception of Article 48, of this Regulation shall apply only to activities and tasks carried out in relation to the working timetables entering into force after [8 December 2029];

Or. en

Justification

The aspects that can already become applicable as of 2026 should not be postponed to 2029. Many infrastructure managers have already started the strategic planning process under TTR project and they are prepared for the implementation, only requiring legal basis. Ensuring more ambitious implementation dates is key for reaching the EU's climate mitigation targets and the goals of the Sustainable and Smart Mobility Strategy.

Amendment 171

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) Article 35 shall apply from [1 December 2028];

Or. en

Justification

Provisions related to the scheduling of capacity restrictions resulting from infrastructure works could apply already as from December 2028.

Amendment 172

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) Article 40 shall apply from [1 December 2027];

Or. en

Justification

Provisions related to Compensation for changes to capacity rights could apply already from December 2027.

EXPLANATORY STATEMENT

Both the European Green Deal and the Sustainable smart mobility strategy highlighted the urgent need for decarbonising the European transport sector. As one of the most efficient forms of both passenger and freight transport, railway plays a vital role in these efforts. It is therefore key to use the existing infrastructure in the most efficient way and try to reap the best possible capacity gains of up to 4% as the Commission estimates in her impact assessment. The proposal of the Commission is very welcome in this regard.

Today, problems of congestion of rail tracks, poor punctuality, missed transfers and speed are endemic. The proposed legislation will allow for more optimal use of the rail tracks and increase punctuality and reliability. The provision of more flexibility for last minute path allocation should attract more freight to rail. At the same time, passengers are expected to benefit from reliable long-term planning and earlier bookings of capacity, hence using the overall network capacity in a more optimal way.

It is welcomed that the Commission has opted to take as a basis for her own proposals the rail sector's own initiative, the Timetable Redesign Project (TTR), which has already proved to be of great value and is carried by European entities, including RNE. It is also positive that the Commission tries to give more flexibility to freight services by introducing a rolling timetable, which this report introduces a definition to. The introduction of a more flexible approach to capacity allocation will enable more ad-hoc paths and ensure that no paths are held without being used. Still, the balance between passenger and freight transport remains a delicate balance on a mixed network that will have to be addressed by this Regulation.

This report is reinforcing the Commission's stance in that it reinforces the infrastructure managers obligation to offer alternatives wherever possible, including cross-networks in order to accommodate capacity applicants. Also, the Commission's approach is reinforced by the possibility for clock face timetabling that some Member States have opted to introduce by strengthening the notion of pre-allocated and systemic train paths. Furthermore, the notion of 'force majeure' has been tightened to avoid over-use. Clear rules under which circumstances infrastructure managers can cancel capacity without compensation are outlined in the text.

The report agrees with Commission on the inclusion of socioeconomic and environmental criteria to help in conflict situations. The sector highlights difficulties, that the report addresses by tasking the Commission with the development of a delegated act. There are countries, foremost Sweden, who have already introduced such criteria, so experience is already being made. This report widens the application of the criteria to also be applied in the planning phases to involve socioeconomic and environmental concerns into the use of the infrastructure from start.

The report also introduces a definition of 'railway infrastructure capacity' and points to the fact that capacity can be influenced by many more aspects than just efficient capacity allocation. There are a number of important issues for both Commission, Member states and the sector's companies to focus on to help increase capacity further. The rail capacity regulation alone is not sufficient to address EU's ambitious goals.

The overall Europeanisation of systems and procedures is introduced and endorsed throughout the text, to ensure the inclusion of multi-modal solutions, multi-country rerouting and making long-distance multi-network applications easier. The creation of a European Rail International Capacity Allocation body (ERICA) in Article 57a is meant to reinforce this notion.

Stable and reliable infrastructure financing for maintenance, renewal and new construction is highlighted, as well as the need to identify infrastructure enhancements needs on a multi-network level. Stable infrastructure financing is a key condition for capacity allocation. The report insists that planning of construction and maintenance as well as a steady commitment to financing them is needed, whilst also ensuring bottom up information, asking that capacity analysis is used in decisions where to construct, maintain or upgrade needed infrastructure.

Furthermore, the position of European Network of Infrastructure Managers (ENIM) is adjusted in the report, obliging the ENIM to set up and consult with the European Operational Stakeholder Platform (EOSP), and including other stakeholders too that are listed in the new Article 55a. Another important aspect is that the report does not agree with Commission tasking ENIM to set up their own goals, processes and oversight. It therefore transfers performance review of ENIM to ENRRB and also introduces consultative bodies to ENIM that group operational stakeholders, other applicants, service facilities, terminals and other stakeholders that mutually benefit from their early and continuous involvement in the capacity development and allocation.

As far as the timing is concerned we want to be more ambitious than the Commission. Since the sector has already started to implement some of the planning processes under the TTR project, we consider it feasible to start implementing the regulation in slightly more ambitious steps. A swift implementation of the Regulation will be key to ensure that we can reap the benefits of the proposed legislation in line with the goals set out in the Sustainable and Smart Mobility Strategy.

Finally, the report provides for proper secondary legislation by ensuring that the correct references to Implementing and Delegated acts are made.

The rapporteur thanks all those that helped in providing input to this report and looks forward to fruitful debates on taking the legislation further.

**ANNEX: LIST OF ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The following list is drawn up under the exclusive responsibility of the rapporteur. The rapporteur has received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
ACF, Administration des chemins de fer du Luxembourg
Alstom
Benedikt Weibel, former CEO of SBB, Schweizerische Bundesbahnen and former UIC, International Union of Railways Chairman
Cabinet of Belgian Transport Ministry
CER, Community of European Railways
CFL, Société Nationale des chemins de fer luxembourgeois
DB, Deutsche Bahn
DG Move
EIM, European Rail Infrastructure Managers
ERA, European Railway Agency
ERFA, European Rail Freight Association
Ferrovie dello Stato Italiane
FTE, Forum Train Europe
IRG - Rail
Ministry of Transport and Infrastructure Luxembourg
ÖBB, Österreichische Bundesbahnen
PRIME
RNE, RailNet Europe
Schienen-Control
SNCF, Société Nationale des Chemins de fer
UIP, International Union of Wagon Keepers
UIRR, International Union for Road-Rail Combined Transport