RAIL TRANSPORT

EU rail transport policy is geared towards the creation of a Single European Railway Area. Three packages and a recast were adopted in the space of 10 years following the opening-up of the railway sector to competition in 2001. A fourth package, designed to complete the Single European Railway Area, was adopted in April 2016 (the technical pillar) and in December 2016 (the market pillar).

LEGAL BASIS AND OBJECTIVES

Article 100(1) of the Treaty on the Functioning of the European Union.

The aim of a common transport policy is to safeguard both competition and the freedom to provide services. This necessitates the harmonisation of technical, administrative and safety rules, which is essential if there is to be interoperability between national rail systems. Environmental and consumer protection measures may also have to be harmonised to some extent in order to prevent distortions of competition and make it easier for new companies to enter the market.

In its 2011 white paper entitled ‘Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system’ (COM(2011)0144), the Commission set the goal of ensuring that the majority of medium-haul passenger transport is carried out by rail by 2050. In the medium term (by 2030), the length of the existing high-speed network should be tripled and a dense rail network in all Member States maintained. In the long term, a European high-speed rail network should be completed.

ACHIEVEMENTS

A. Interoperability

Through the adoption of Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of 19 March 2001 on the interoperability of the trans-European conventional rail system, the EU began a process designed to ensure that trains can transit smoothly and safely from one Member State rail network to another. A number of technical solutions (known as ‘Technical Specifications for Interoperability’ or TSIs) were drawn up as part of these directives.

The two directives were amended and updated by Directive 2004/50/EC of 29 April 2004. The scope of the directive on the conventional rail system was extended to cover the whole of the European rail network, in order to meet the
demands created by the full opening-up of the rail network to national and international freight transport services (in January 2007) and international passenger transport services (in January 2010). Directive 2008/57/EC of 17 June 2008 – later amended by Directives 2009/131/EC and 2011/18/EU – recast the earlier directives into a single text. As part of the Fourth Railway Package, Directive 2008/57/EC was then itself also recast by Directive (EU) 2016/797 of 11 May 2016 on the interoperability of the rail system within the European Union.

Memoranda of understanding were signed in 2005, 2008, 2012, and 2016 between representatives of the rail industry and the Commission in order to reduce technical barriers to interoperability and fix the main objectives of cooperation and commitment between counterparts.

Since 1 January 2007, national and international freight transport has been entirely open to competition. In an attempt to make better use of the international freight network and improve its interoperability, the EU mapped out nine competitive European freight corridors in Regulation (EU) No 913/2010 of 22 September 2010 concerning a European rail network for competitive freight. The objective was to make the railways more competitive in relation to other modes of transport for goods that have to cross several Member States. Regulation (EU) No 913/2010 was amended by Regulation (EU) No 1316/2013 of 11 December 2013 establishing the Connecting Europe Facility for the years 2014 to 2020. In 2015, Regulation (EU) No 1316/2013 was amended by Regulation (EU) No 2015/1017 of 25 June 2015 on the European Fund for Strategic Investments, the European Investment Advisory Hub and the European Investment Project Portal. The Commission proposal COM(2016)0597 sought the extension of the duration of the European Fund for Strategic Investments, as well as the introduction of technical enhancements for that fund and the European Investment Advisory Hub, and entered into force on 16 October 2017.


B. European Railway Agency and railway safety

The European Railway Agency (ERA) – with headquarters in Lille and Valenciennes, France – was set up by means of Regulation (EC) No 881/2004 of 29 April 2004 with the aim of improving the interoperability and safety of the European rail network. The agency itself has no decision-making powers, but it helps the Commission to draw up proposals for decisions in the area of the European rail network and in setting common safety targets. On 16 December 2008, Regulation (EC) No 1335/2008 assigned new tasks to the ERA. On 11 May 2016, as part of the Fourth Railway Package, Regulation (EU) 2016/796 on the European Union Agency for Railways repealed and replaced Regulation (EC) No 881/2004, with a view to contributing to the further development
and effective functioning of a Single European Railway Area, guaranteeing a high level of railway safety and interoperability, and improving the competitiveness of railways. The ERA is now the only authority with the power to issue vehicle authorisations (for locomotives and wagons) used for cross-border operations and single safety certificates for railway undertakings operating in several Member States.

Since early 2020, Parliament has been working on an own initiative report entitled ‘Railway safety and signalling: assessing the state of play of the European Rail Traffic Management System (ERTMS) deployment’ ([2019/2191(INI)]). The draft report will be published shortly, and will be voted on in the July 2021 plenary.

C. Social harmonisation

**Council Directive 2005/47/EC** of 18 July 2005 lays down working conditions for mobile workers engaged in interoperable cross-border services in the railway sector. It is based on an agreement between the European social partners in the rail industry. Furthermore, **Directive 2007/59/EC** of 23 October 2007 aims to harmonise the minimum qualification requirements and the certification of locomotive and train drivers in the EU. It stipulates that all train drivers must hold a licence and a harmonised further training certificate. On that basis, the directive provides for mutual recognition of documents. Since October 2011, certificates or licences have been issued to drivers performing cross-border services, cabotage services or freight transport services in another Member State, or working in at least two Member States.

D. Access to infrastructure for railway undertakings

**Directive 95/18/EC** of 19 June 1995 on the licensing of railway undertakings provides that, in order to gain access to the infrastructure of all the Member States, a railway undertaking must hold an operating licence. The licence is issued by the Member State in which the company is established, provided that certain common conditions (good repute, financial fitness and professional competence) are met. The directive was amended by **Directive 2001/13/EC** of 26 February 2001, which laid down rail sector operating conditions (safety, technical, economic and financial) applicable throughout the EU and established a freight service authorisation procedure for the European cross-border network.

**Directive 2012/34/EU** of 21 November 2012 establishing a single European railway area repealed and replaced **Directives 95/18/EC** and **2001/13/EC**. It brought together in a single text the main principles governing rail development (focusing, *inter alia*, on the separation of infrastructure management and transport activities), the granting of licences to railway undertakings and the levying of charges for the use of infrastructure. Generally speaking, the directive stimulates competition by making market access conditions more transparent, providing for clear separation of accounts and strengthening national regulatory bodies.

The Fourth Railway Package was designed to complete the Single European Railway Area and improve interoperability. On 14 December 2016, **Directive (EU) 2016/2370** (also known as the Governance Directive) was adopted, amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure.

E. Railway noise

Directive 2002/49/EC of 25 June 2002 relating to the assessment and management of environmental noise provides a basis for the adoption of EU measures designed to reduce noise emissions from rail vehicles and infrastructure, leading to specific guidelines which were adopted in 2003 and entered into force in June 2006. In April 2011, a further Commission decision revised the TSIs for railway system rolling stock. On 8 July 2008, the Commission published a communication entitled ‘Rail noise abatement measures addressing the existing fleet’ (COM(2008)0432), in which it set the goal of retrofitting all freight wagons by 2015. In an attempt to encourage rail companies to retrofit their wagons with low-noise brakes, Directive 2012/34/EU also provides for a new, noise-differentiated charge collection system (European Train Control System (ETCS)).

ROLE OF THE EUROPEAN PARLIAMENT

The European Parliament has used its legislative powers to support most of the Commission’s proposals for harmonisation, while at the same time emphasising certain specific aspects:

1. In its resolution of 11 March 2008 on sustainable transport policy, Parliament explicitly supported the introduction of the ERTMS/ETCS rail safety, control and signalling system with a view to eliminating technical obstacles, and called for moves to be made towards establishing a Single European Railway Area;

2. In its resolution of 11 March 2009 on the greening of transport and the internalisation of external costs, Parliament called on the Commission to take steps without delay to produce specific proposals for all modes of transport. It also asked the Commission to submit a comprehensive plan for calculating and charging external costs and assessing their impact on the basis of a comprehensible model. Parliament then called on the Commission to draw up a proposal for a directive with a view to introducing noise-related track access charges for locomotives and wagons;

negotiations concluded successfully, and adoption and entry into force are expected respectively for early 2021 and 2023.

On 15 December 2020, Parliament endorsed the interinstitutional agreement establishing the 2021 European Year of Rail. According to this report, measures to be taken as part of the European Year will include, initiatives to emphasise the essential role of rail in ‘door-to-door’ transport and to encourage work-to-work and home-to-work solutions by rail. With a view to identifying areas where investment in rail infrastructure is particularly needed, the Commission is invited to examine the possibility of creating a rail connectivity index to assess the consistency, quality and diversity of the European rail network, as well as to assess its accessibility as regards the options it provides for intermodal travel.

RESPONSE TO THE COVID-19 OUTBREAK

1. Temporary framework for State aid measures

In their ‘Overview of the State aid rules applicable to the land transport sector during the COVID-19 outbreak‘, the Commission services recommend that for rail freight, in case of urgency, Member States conclude public service contracts within the meaning of the Public Procurement Directives. In addition, the general rules on services of general economic interest (‘SGEI’) apply. They govern the conditions under which compensation for an SGEI can be granted. Provided all requirements are respected, no notification under State aid rules is necessary.

The proposed Regulation COM(2020)0260 aims to temporarily repeal the rules laid down in Directive 2012/34/EU (see above) by allowing national authorities and rail stakeholders to deal more easily with a number of negative consequences of the COVID-19 pandemic: waiver, reduction or deferral of track access charges for the use of rail infrastructure, as well as the waiver of reservation charges. This regulation covers a reference period up to 31 December 2020.

2. Extension of transposition deadlines

Following the severe effects of the pandemic crisis, transport undertakings and operators, and other persons concerned, may not be able to complete the necessary formalities or procedures to comply with certain provisions of Union law. Regulation (EU) 2020/698 relates to the application of twelve legislative texts (directives and regulations) to all modes of transport, including rail, and extends the time limits laid down for the renewal or extension of certificates, licenses or authorisations, and the postponement of certain periodic checks and training. This text was adopted by Parliament in May 2020. Directive (EU) 2020/700 extends by three months (from 16 June to 16 September) the final transposition period of Directive (EU) 2016/797 on the interoperability of the rail system within the European Union and Directive (EU) 2016/798 on railway safety, given that in 2019 only eight Member States had transposed both directives. Following the outbreak of the pandemic, it is indeed unlikely that the remaining Member States would be able to complete transposition within the previously scheduled timeframe. Directive (EU) 2020/700 was adopted by Parliament and the Council in May 2020. In September 2020, Parliament adopted the proposal for a regulation ‘to assist the railway sector deal with the emergency created by the
COVID-19 pandemic’ (2020/0127(COD) intended to complete the existing rail-related framework. In this way, national authorities and rail stakeholders can deal more easily with a number of negative consequences of the COVID-19 pandemic, and respond to the urgent needs of the railway sector as long as those consequences persist.

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