DEPARTURE DEMANDS

- Statute for Social and Solidarity-Based Enterprises

DEPARTURES

- Cross-Border Mobility for Companies
- Measures to Address Unfair Practices
- Airport Charges Directive
- Ground Handling Services Directive
- Regulation on Common Rules for the Operation of Air Services
- Regulation on Aviation Accident Investigation
- Regulation on the EU Airlines Safety List
- Digital Technologies in Company Law
- Services E-Card
- SMIT
- Services Notification Procedure
- Action Plan to Increase Awareness of the Mutual Recognition Principle
- Revision of Mutual Recognition Regulation
- Rail Passengers’ Rights and Obligations (Recast)
- Minimum Level of Training of Seafarers

EXPECTED ARRIVALS

- Empowerment NCA
LEGEND

- **4TH RAILWAY PACKAGE**
- **AN AVIATION STRATEGY FOR EUROPE (CWP 2015)**
- **UPGRADING THE SINGLE MARKET STRATEGY**
- **SERVICES PACKAGE**
- **REVIEW OF PASSENGER SHIP SAFETY**
- **COMPLIANCE PACKAGE**
- **DEPARTED**
- **EP EUROPARL**
- **EC EUROPEAN COURT OF JUSTICE**
- **C COUNCIL**
- **CE COMMISSION**
- **JD JOINT DECLARATION ON THE EU'S LEGISLATIVE PRIORITIES FOR 2018-19**
- **MF MULTIANNUAL FINANCIAL FRAMEWORK 2021-2027**

GLOSSARY

**DEPARTURE DEMANDS**
European Parliament legislative initiative reports in the fields covered by the Ten-Point Juncker Agenda

**DEPARTURES**
Initiatives announced by the European Commission in its annual Work Programme; legislative proposals submitted by the Commission to the Parliament and the Council; the files are considered departed when the Co-Legislators have started legislative work

**EXPECTED ARRIVALS**
Legislative proposals close to be finalised
**ON HOLD**

Initiative blocked by one institution or under negotiations for more than 2 years; announced legislative initiatives or legislative proposals by the European Commission with no follow-up for more than 9 months.

**ARRIVED**


**DERAILLED**

Proposals withdrawn by the European Commission.

**DISCLAIMER**

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The existing single market for goods and services has already contributed significantly to economic growth and consumer welfare in the EU. Research conducted by the European Parliament’s services estimates that fully delivering the existing single market and ensuring its further completion in areas such as public procurement, the free movement of goods and services and developing consumer acquis could generate €338bn per year in GDP across the EU once it has been fully phased-in.

Services are a crucial element of the EU economy, accounting for over 70% of the EU’s GDP and a similar share of employment. The European Commission committed to strengthen the single market by removing barriers for companies that want to offer cross-border services and to make it easier for them to do business. To this end a range of initiatives have been proposed: the ‘Services package’ presented in January 2017 aims to reduce barriers to trade in services, with proposals for a services e-card, for notification procedures for authorisation schemes and requirements related to services, and for proportionality tests before adoption of new regulation of professions. The ‘Compliance package’ from May 2017 - comprising proposals for a single digital gateway, a single market information tool (SMIT), and a SOLVIT action plan - should provide access to high quality information, online administrative procedures, and assistance services, through a single digital entry point. The legislative acts contained in these packages are now being discussed by the co-legislators. Their swift adoption is mentioned as one of the initiatives in the Letter of intent accompanying President Juncker’s 2017 State of the Union speech published on 13 September 2017, as well as in the Commission Work Programme 2018 published on 24 October 2017.

Despite transport’s key role in the EU economy as a common EU policy and an important generator of jobs, the common transport market has yet to be completed and remains vulnerable to external shocks. The remaining barriers and gaps in the single market create substantial costs and hamper connectivity in Europe. Removing them could bring estimated gains of €8 billion per year. The sector faces significant difficulties, particularly in terms of competitiveness and environmental sustainability. The challenge for the transport sector is twofold: to avoid limiting freedom of movement within the EU and to create the necessary conditions to boost EU growth and employment.

In this perspective, the European Commission proposed a number of legislative initiatives on transport.

In the railway sector, where the freight transport had been fully liberalised since 2007 and the international passenger transport had been opened since 2010, the aim of the ‘4th railway package’ presented in January 2013 was to create a truly integrated European Railway Area. While the technical proposals of the package on interoperability and safety were adopted in April 2016, the proposals on the liberalisation of rail markets and governance structures (the ‘market pillar’) took longer and were adopted in December 2016.
In the aviation sector, together with the Aviation Strategy for Europe, the Commission presented in December 2015 a legislative proposal on civil aviation safety and the new mandate of the European Aviation Safety Agency (EASA), also introducing basic rules on drones. In June 2017, within the ‘Aviation: Open and Connected Europe’ package, the Commission proposed rules to ensure fair competition between Union air carriers and third country air carriers. However, several essential initiatives remain blocked such as proposals on Single European Sky, air passenger rights or slots while others remain at a preparatory phase.

In the maritime sector, following a Commission 2013 proposal, a partial liberalisation of port services was achieved with the adoption of new rules in February 2017. Further, three proposals updating the rules for passenger ship safety, published in 2016, were adopted in October 2017.

In inland waterways, the established cooperation with the Central Commission for Navigation on the Rhine facilitated the adoption of the technical requirements for inland waterway vessels, statistics of goods transport by inland waterways and the rules for the recognition of professional qualifications in the sector.

In road transport and closely related to road safety, the Commission proposed on 1 February 2017 updated rules on the initial qualification and periodic training for professional drivers (lorry and bus drivers). Following completion of interinstitutional (trilogue) negotiations, the text was largely approved at first reading by the EP Plenary on 13 March 2018.

'Mobility package' (see legislative train 3):

Within efforts to achieve a Resilient Energy Union, the Commission put forward initiatives to increase clean, competitive and connected mobility and improve mobility services for citizens. In 2017, it published several legislative proposals known as the ‘mobility package’. They focus on road infrastructure charging, rules for access to the EU haulage market and the use of hired vehicles, on social legislation in road transport, as well as on clean mobility in road and combined transport, in particular the new CO2 emissions standards for cars and vans, but also an update of the rules for coach and bus services. Further proposals in this package are expected in the first half of 2018.

Proposals in the ‘mobility package’ are covered in detail in legislative train 3, ‘Resilient Energy Union’.

Source for the financial potential evaluation:

CONTENT

Social and solidarity-based enterprises are part of the social economy, combining wider social, environmental and community objectives with entrepreneurial activity. According to the findings of a 2016 EP study, the social economy represents an area of civic activity which, through the performance of economic and public interest activities, contributes to: professional and social integration of persons at risk of social marginalisation, job creation, provision of social services of general interest and local development. Social economy business models contribute to the improvement of competitiveness within the EU Single Market. They are also an increasingly popular choice for outsourcing certain public services of general economic interest. The social economy provides more choices to consumers, helps prevent the formation of monopolies, lowers retail prices, provides opportunities for skill development and innovation and limits information asymmetry. In addition, social enterprises respond to the growing demand for goods and services with a positive social and environmental impact, as consumer awareness rises and more attention is given to the social impact of economic activities. One of the main challenges in this area is to ensure more visibility, better-tailored funding and legal frameworks.

Social enterprises can take a variety of legal forms and statuses, ranging from existing legal forms (i.e. associations, foundations, cooperatives, mutuals, share companies), to new legal forms exclusively designed for social enterprises. Twenty out of the 28 EU Member States have adopted a definition of social enterprise. Despite several areas of overlap between different national models/definitions, a comparative analysis of the 28 EU countries’ legislative framework for social enterprises highlights that important differences remain. Existing legal provisions at EU level include the 2003 Regulation on the Statute for a European Cooperative Society (SCE). The subsequent Commission proposal on the Statute for a European mutual society of 2006 and the 2012 proposal for a Regulation on the Statute for a European Foundation (EF) have been withdrawn, as they did not receive sufficient support.

The currently proposed initiative on a Statute for social and solidarity-based enterprises would offer an opportunity to establish a broader EU-level legal basis for various types of social economy actors. The European Parliament launched an own-initiative procedure for a Statute for social and solidarity-based enterprises, with Jiří Maštálka (GUE/NGL, Czech Republic) as rapporteur and the Committee for Legal Affairs (JURI) appointed as lead and Committee for Employment and Social Affairs (EMPL) as associated committee.

The EP resolution of July 2018 acknowledges the diversity and innovative character of the existing legal forms of social enterprises. It calls on the Commission to introduce a ‘European social economy label’ to be obtained by social enterprises optionally on request and
upon meeting a set of criteria, regardless of the legal form in the national legislation. The resolution proposes criteria for the ‘European social economy label’ (e.g. private law entity independent of authorities, focused on general interest or public utility, with a socially useful purpose and at least partial constraint on profit distribution, a democratic governance and decision-making model), a mechanism for the certification, supervision and monitoring of the label (with the involvement of the Member States) and recognition of the label in all Member States, as well as reporting obligations. It also recommends establishing guidelines of good practices, a revisable list of legal forms in Member States and a revision of existing legislation to create a more coherent and complete legal framework in support of social enterprises. The resolution also calls on the Commission to actively promote the European Social Economy Label, ensure that EU policies reflect a commitment to create a favourable environment for social and solidarity-based enterprises and to carry out, in cooperation with Member States and the social enterprise sector, a comparative study of the various national and regional legal frameworks throughout the EU, and of the operating conditions for social and solidarity-based enterprises and of their characteristics, including their size and number and their field of activities, as well as of the various national certification, status and labelling systems. In the context of the Expert Group on Social Entrepreneurship and in cooperation with Member States, the EP calls on the Commission to continue collecting and sharing information on existing good practices, and to analyse both qualitative and quantitative data on the contribution of social and solidarity-based enterprises both to the development of public policy and to local communities. It also calls on the Commission and Member States to take steps to increase public and private funding needed by social and solidarity-based enterprises and suggests that the Commission could examine the possibility of establishing a line of financing to support innovation in enterprises based on the social economy and solidarity. It also calls for strengthening the social dimension of existing Union funding in the context of the next Multiannual Financial Framework (MFF) 2021-2027.

On the basis of Article 50 of the Treaty on the Functioning of the European Union, the EP calls on the Commission to submit a proposal for a legislative act on the creation of a European Social Economy Label, following the recommendations set out in the Annex to the EP resolution. The Commission is expected to react within three months after the adoption of the EP resolution and its position will be officially available next month.

References:

- EP Legislative Observatory, Procedure file on the Statute for social and solidarity-based enterprises, 2016/2237(INL)
- European Parliament, European Parliament resolution of 5 July 2018 with recommendations to the Commission on a Statute for social and solidarity-based enterprises, 2016/2237(INL)

Further reading:

- European Parliament, EPRS, Statute for social and solidarity-based enterprises, European Added Value Assessment (EAVA), December 2017
- European Parliament, EPRS, EU support for social entrepreneurs, Briefing, March 2017
CROSS-BORDER CONVERSION, MERGERS AND DIVISIONS OF COMPANIES / €0.04BN

EXPLANATION OF COST OF NON EUROPE

Expected economic gains: €0.04 billion per year with complete freedom of movement

CONTENT

On 25 April 2018 the Commission presented a package of proposals concerning the reform of EU company law. The package comprises two directives, both amending Directive (EU) 2017/1132. One of the proposals amends it with regard to the use of digital tools and processes in company law, and the other - with regard to cross-border conversions, mergers and divisions of companies. This follows the Commission’s Digital Single Market Strategy (from May 2015), in which it promised to put forward simpler and less
burdensome rules for companies, including providing for making digital solutions available in particular in relation to the registration of companies. In October 2017, the Court of Justice of the EU ruled in Case C-106/16 *Polbud* that freedom of establishment, provided for in the Treaty, includes the right for so-called cross-border convention. This means that a company may convert itself into a company governed by the law of another Member State, provided the requirements of the Member State of destination for its incorporation are satisfied. The Commission claims that the new rules on cross-border conversions, mergers and divisions of companies will generate savings for companies of between €176 and €280 million over 5 years. According to the Commission’s estimates, currently there are some 24 million companies in the EU, out of which approximately 80% are limited liability companies.

The proposal concerning cross-border conversions, mergers and divisions of companies would introduce a new legal institution - cross-border conversion. This would allow companies that wish to move from one Member State to another, the possibility of changing their country of incorporation without losing their legal personality or having to re-negotiate their business contracts. The Commission argues that a conversion is particularly attractive option for small companies that do not have enough financial resources to search for expensive legal advice and conduct a cross-border merger. Currently, companies wishing to move their registered offices between Member States need to rely on national laws (if they exist). This creates legal hurdles, especially that the laws are often incompatible and more than half of the Member States do not provide any specific rules allowing for cross-border conversions. Under the process of conversion, a company registered in one Member State could change its legal form in that Member State into a similar legal form of another Member State, without losing its legal personality, and without the need to dissolve or liquidate. The proposal also addresses the issue of cross-border mergers (providing harmonised rules for protection of creditors and shareholders), as well as cross-border divisions.

Within Parliament, the dossier has been attributed to the Legal Affairs Committee (JURI) as the lead committee. Opinions will be sought from three other committees: the Economic and Monetary Affairs Committee (ECON), the Employment and Social Affairs Committee (EMPL), as well as the Internal Market and Consumer Protection Committee (IMCO). On 15 May 2018, the JURI Committee appointed the rapporteur - Evelyn Regner (S&D, Germany). The IMCO committee decided to not give an opinion on this proposal.

On 23 May 2018 the Commission presented the proposal to the Council.

On 21 August 2018, the JURI committee rapporteur, Evelyn Regner (S&D, Germany), presented a draft report. The main amendments proposed by the rapporteur are as follows:

- introduction of the the requirement of genuine economic activity in the Member State where the company moves to (in order to prevent the creation of "letterbox companies"
- stronger protection of employee participation, information and consultation rights so that a cross-border operation of a company should not lead to the loss of acquired rights of workers in Europe
- deleting the requirement to consult an independent expert when doing an in-depth assessment and strengthens the information flow between the national authorities
- deleting the chapter on cross-border divisions - in the absence of rules for transferring the seat of a company cross-border,
companies would make use of national divisions combined with a cross-border merger.

On 25-26 September, a series of amendments to the draft report have been submitted by Members. The committee is yet to vote on them. On 4 October 2018 it was announced that the EMPL committee will be associated for the file.

References:

- EP Legislative Observatory, Procedure file on Cross-border conversions, mergers and divisions, 2018/0114(COD)

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As of 20 October 2018

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MEASURES TO ADDRESS UNFAIR PRACTICES (REVISION OF REGULATION ON SAFEGUARDING COMPETITION IN AIR TRANSPORT)

> AN AVIATION STRATEGY FOR EUROPE (CWP 2015)
The aim of Regulation 868/2004 was to provide protection against subsidisation and unfair pricing practices in the supply of air services from non-EU countries.

For the EU aviation industry to remain competitive, it is essential for market access to be based on a regulatory framework that promotes EU values and standards, enables reciprocal opportunities and prevents any distortion of competition.

One of the key priorities of the new aviation strategy adopted by the Commission on 7 December 2015 is 'tapping into growth markets, by improving services, market access and investment opportunities with third countries, whilst guaranteeing a level playing field'.

The strategy identifies a number of different routes for ensuring a level playing field for market access. These include: examining the issue in the context of the negotiation of EU comprehensive air transport agreements (the Commission explicitly says it will negotiate effective fair competition provisions in the context of the negotiation of such agreements), action at the ICAO; proposing new EU measures to address unfair practices, in particular by revising Regulation 868/2004 on protection against subsidisation and unfair pricing practices.

On this last point, a 2012 Commission Communication already stated that Regulation 868/2004 had never been used and that the sector considered it to be impracticable. According to the indicative Action Plan included in the new Aviation Strategy, the Commission was considering proposing new EU measures to address unfair practices (revision of Regulation 868/2004) in 2016, a legislative proposal that will be subject to Commission better regulation requirements (similarly to the other legislative proposals referred to in the action plan).

On 8 June 2017, the Commission presented the ‘Open and Connected Aviation’ package that includes the legislative proposal for a regulation on safeguarding competition in air transport, repealing Regulation 868/2004.

The legislative proposal, whose purpose is to ensure fair competition between Union air carriers and third country air carriers, consists in a tool ‘to ensure that airlines can compete on the basis of equal opportunities and that EU’s connectivity can be safeguarded’. In particular Article 1(1) of the proposal mentions that ‘This Regulation lays down rules on the conduct of investigations by the Commission and on the adoption of redressive measures, relating to violation of applicable international obligations and to practices affecting competition between Union air carriers and other air carriers and causing or threatening to cause injury to Union air carriers.’

Common rules on proceedings notably provide that an investigation may be opened on the basis of a complaint from a Member State, an EU air carrier or an association of EU air carriers, or on the Commission’s own initiative. The proposal describes notably the conditions under which the Commission may decide or not to open an investigation as well as its right to seek the information deemed necessary to conduct the investigation. It also defines two possible purposes of investigation, pertaining either to the violation of applicable international obligations (the ‘violation’ track) or to practices adopted by a third country or third-country entity affecting competition and causing injury or threat of injury to Union air carriers (‘injury’ track). The proposal also provides for the possibility under certain conditions to adopt financial or operational measures intended to offset injury or threat of injury.

The European Parliament has called for the revision of Regulation 868/2004 in a number of its resolutions. The EP’s 11 November 2015 resolution on aviation emphasised that Regulation (EC) No 868/2004 had proved inadequate and ineffective, and called on the Commission to revise it. In its recent resolution of 16 February 2017 on an Aviation Strategy for Europe, the EP welcomed the Commission’s proposal to revise Regulation (EC) No 868/2004 addressing unfair current practices, but also stressed ‘that neither an unacceptable trend towards protectionism, nor, on their own, measures to ensure fair competition can guarantee the competitiveness of the EU aviation sector’.

The legislative proposal was assigned to the Parliament’s Committee on Transport and Tourism (TRAN). On 11 January 2018, the
rapporteur, Markus Pieper (EPP, Germany), presented his draft report to the Committee. Committee Members discussed the numerous amendments to the report on 20 February and adopted the draft report on 20 March. The report supports the Commission’s proposal, highlights the importance of connectivity, introduces for the Commission the obligation to report to the EP regularly and the possibility of adopting provisional redressive measures under specific circumstances.

Intensive discussions on the proposal have taken place in Council within the Aviation Working Party. The Transport, Telecommunications and Energy Council adopted its position (general approach) on 7 June 2018. It notably removes the notion of threat of injury at the stage of initiating proceedings, introduces the possibility to suspend the investigation for 12 months at the request of all the Member States concerned and also formally excludes traffic rights as possible redressing measures. Trilogue negotiations have started and the Austrian Presidency mentioned that it would strive to move these negotiations forward.

The Parliament at the April 2018 plenary confirmed the TRAN Committee decision to enter into interinstitutional (trilogue) negotiations.

References:

- EP Legislative Observatory, Procedure file on a Regulation on Safeguarding competition in air transport, 2017/0116(COD)
- Regulation (EC) No 868/2004 of 21 April 2004 concerning protection against subsidisation and unfair pricing practices causing injury to Community air carriers in the supply of air services from countries not members of the European Community
- European Parliament, Safeguarding fair competition in air transport, Press release, 20 March 2018
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- Austrian Presidency of the Council of the European Union, Programme of the Austrian Presidency of the Council of the European Union, June 2018

Further reading:

- European Parliament, EPRS, EU external aviation policy, Briefing, May 2016
- European Parliament, EPRS, Safeguarding competition in air transport, Legislative briefing, July 2018

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AIRPORT CHARGES DIRECTIVE - EVALUATION AND POSSIBLE LEGISLATIVE ACTION / AFTER 2016

AN AVIATION STRATEGY FOR EUROPE (CWP 2015)

CONTENT

Directive 2009/12 on airport charges (Airport Charges Directive) is about charges paid by airport users (i.e. airlines) for the use of airport facilities, charges related to the landing, take-off, lighting and parking of aircraft, as well as to the processing of passengers and freight. While airport charges are levied on airlines their cost is ultimately paid for indirectly by passengers and freight customers via ticket prices and freight forwarding fees.

The Airport Charges Directive applies to airports with over five million passenger movements per year, and to at least the largest
airport in each Member State. The objectives of the directive are: to provide greater transparency about how airport charges are calculated; to ensure that airports do not discriminate among airlines in the application of airport charges (unless duly justified); to establish regular consultations between airports and airlines and, lastly, to establish an independent supervisory authority in each Member State charged with settling disputes between airports and airlines over airport charges, and overseeing the directive’s implementation.

In May 2014, the Commission published a report COM(2014) 278 on the application of the Airport Charges Directive. The report emphasises that it is too early to draw any final conclusions on the impact of the directive, noting that it was not until early 2013 that notification of the full transposition of the directive had been received from all Member States. It explains that, according to market players, the main positive effects of the directive include increased transparency when setting airport charges at the largest European airports; better consultation between airports and airlines; and the establishment of independent supervisory authorities in each Member State together with remedy procedures. However, the report also highlights a number of points of contention, where airports and airlines may have diverging views on implementation, and where further work is needed to ensure consistent application across the EU.

To examine the application of airport charges in more detail, the Commission created in a new expert group in May 2014, the Thessaloniki Forum of Airport Charges Regulators. The purpose of the group is to help exchange best practices on airport charge regulations in the Member States, to discuss their findings on the application of the Airport Charges Directive and to engage in common reflection on the necessary principles for airport charges in the EU. The forum’s third meeting of 9 and 10 December 2015 stressed that the need for a revision of the Airport Charges Directive would be assessed during the current Commission’s term of office. The new Aviation Strategy adopted on 7 December 2015 did indeed point out that the Thessaloniki Forum should also work on the transparency of airport charges and effective airline-airport consultation and that the Commission would then assess the extent to which the Airport Charges Directive may need to be reviewed.

According to the Aviation Strategy’s indicative action plan, a study or evaluation on the Airport Charges Directive 2009/12/EC was scheduled to be held in 2016-2017. The Commission published the evaluation roadmap in September 2016 and an Inception Impact Assessment in November 2017. In December 2017, the Commission published the support study to the Ex-post evaluation of the Directive, which was carried out by an external contractor. The Commission also launched from April to June 2018 a public consultation on Charges for the Use of Airport Infrastructure. The Commission should publish its conclusions on the evaluation in autumn 2018.

The European Parliament has adopted a number of resolutions which discuss the issue of airport charges. In its resolution of 2 July 2013, Parliament underlined that ‘the competitiveness of Union carriers is hampered at global level by factors such as the lack of a level playing field owing to, for example, different national taxes, congested airports, high ATM and airport charges’. In its resolution of 16 February 2017, Parliament mentioned that the Commission’s evaluation of the Airport Charges Directive should help clarify whether the current provisions are an effective tool to promote competition or whether a reform is needed.

References:

- Directive 2009/12/EC of 11 March 2009 on airport charges
• European Commission, Thessaloniki Forum of Airport Charges Regulators, website
• European Parliament, Resolution of 2 July 2013 on the EU's External Aviation Policy – Addressing future challenges, 2012/2299(INI)
• European Parliament, Resolution of 16 February 2017 on an Aviation Strategy for Europe, 2016/2062(INI)
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As of 20 October 2018

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• mailto:legislative-train@europarl.europa.eu
GROUNDHANDLING SERVICES DIRECTIVE - EVALUATION AND POSSIBLE LEGISLATIVE ACTION / BEFORE 2017

> AN AVIATION STRATEGY FOR EUROPE (CWP 2015)

CONTENT

Groundhandling includes services provided at airports that are essential for the safe and efficient turnout of aircraft, for example fuelling, passenger handling and the de-icing of aircraft.

Groundhandling activities, which have traditionally been carried out by airport operators or airlines, are now increasingly being provided by specialist companies. While, according to various evaluations, the 1996 Directive was successful in opening up the market, leading to an increase in service providers and a general decrease in the cost of groundhandling services, capacity constraints, together with the Single European Sky initiative, have further highlighted the need to integrate airports into a 'full system, gate-to-gate' approach.

The proposal on groundhandling services at Union airports and repealing Council Directive 96/67/EC, published in December 2011, aimed to enhance the efficiency and overall quality of groundhandling services for users (airlines) and end-users (passengers and freight forwarders) at EU airports. Although the Council adopted a general approach on the proposal in March 2012, and the EP adopted its first reading position in April 2013 2011/0397(COD), with no agreement in sight, the proposal was withdrawn by the Commission in March 2015. The Commission, however, is still looking at ways of improving the functioning of the groundhandling market and the application of the existing directive.

In March 2015, it organised a meeting with Member State representatives and stakeholders to take stock of the groundhandling market, and to identify a way forward.

The Commission will continue to pursue the effective implementation of the existing Directive 96/67/EC, placing a focus on market access for groundhandling at EU airports and ensuring a level playing field between groundhandlers.

In the 2015 Aviation Strategy, the Commission mentioned that it would undertake an evaluation of the groundhandling services Directive in 2017 and then decide if it needs to be reviewed. So far, no evaluation roadmap was published.

References:

- EP Legislative Observatory, Procedure file on the Regulation on groundhandling services at Union airports, 2011/0397(COD)

Further reading:

- European Parliament, EPRS, Airports in the EU, In-depth analysis, June 2016

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As of 20 October 2018

REGULATION ON COMMON RULES FOR THE OPERATION OF AIR SERVICES

AN AVIATION STRATEGY FOR EUROPE (CWP 2015)

CONTENT

In 2011-2013, the Commission carried out a comprehensive evaluation (Fitness Check) of Regulation 1008/2008 on common rules for the operation of air services in the Community. The Fitness Check concluded that key opportunities for improvement were to be found in the enforcement, coordination and exchange of best practices between EU Member States. It considered the existing rules to be generally suitable and well balanced for promoting innovation and fair competition between air carriers. However, it identified a series of issues where more detailed guidance would be useful.

In its 2015 aviation strategy, the Commission proposed carrying out further studies and evaluations on Regulation 1008/2008/EC. In particular, it proposed publishing a set of interpretative guidelines on the application of the Regulation with respect to the provisions on the ownership and control of EU airlines to bring more legal certainty for investors and airlines alike. The Commission published the evaluation roadmap of Regulation 1008/2008/EC in November 2016.

Within the context of the ‘Aviation: Open and Connected Europe’ package, adopted on 8 June 2017, the Commission presented Interpretative guidelines on ownership and control of EU air carriers and Interpretative guidelines on public services obligations. In March 2018, the Commission launched a public consultation on the file. It also commissioned an external study. The Commission is planning to conduct an impact assessment on the file in the second half of 2018, depending on the findings of the evaluation.

In the meantime, in December 2016, the Commission proposed to amend article 13(3)(b) of Regulation 1008/2008 to ensure legal consistency of the regulation with an international agreement with the United States. Article 13 of Regulation 1008/2008 defines the conditions under which lease arrangements of aircraft registered in third countries are allowed. The Commission proposed to open the possibility to remove the restrictive conditions applying to wet-lease agreements for aircraft registered in a third country when a specific wet-lease regime has been included in an international agreement concluded by the European Union. In this technical adaptation, the Commission did not propose to amend the rest of the Regulation 1008/2008.

In the European Parliament, the technical adaptation of article 13(3)(b) of Regulation 1008/2008 was appointed to the Committee on Tourism and Transport (TRAN). On 27 March 2017, the EP appointed Claudia Tapardel (S&D, Romania) as rapporteur. On 27 April 2018, the TRAN Committee adopted its report, in which it proposed a small amendment in the Commission proposal. Namely,
the Parliament proposed to grant the possibility to derogate from the restrictive conditions applicable to wet lease agreements for
aircraft registered in a third country, where an international agreement on wet-leasing signed by the European Union, on the basis of
an existing Air Transport Agreement signed before 1 January 2008 provides for a specific wet-lease regime. On 24 May 2018, the TRAN
Committee decided to grant Claudia Tapardel a mandate for the inter-institutional trialogue talks with the Council of the European
Union on the revision of article 13(3)(b) of Regulation 1008/2008. On 30 May 2018, the Parliament confirmed this decision as a whole
in its plenary session.

The European Economic and Social Committee gave its opinion on the technical adaptation of article 13(3)(b) of Regulation 1008/2008
in July 2017. In its opinion, it accepts the Commission’s rationale for amending Regulation 1008/2008. However, it underlines that
proposed new wording should not allow a long-term wet-lease arrangement for reasons other than those included in Article 13 of the
Regulation.

In the Council, discussions over the technical adaptation of article 13(3)(b) have started at the aviation working party level. On 14
September 2018, the Austrian Presidency of the Council presented in this working party a draft compromise text on the technical
adaptation of the Regulation 1008/2008. The approach followed in the text is very similar to the one adopted by the European
Parliament. The general approach proposed by the Austrian Presidency was later, in September 2018, approved by the working party
and the Committee of Permanent Representatives to the European Union.

References:

- EP Legislative Observatory, Procedure file on a Regulation on common rules for the operation of air services in the Community:
technical adaptation, 2016/0411(COD)
operation of air services in the Community (Recast)
- European Commission, Roadmap for the evaluation of the Regulation 1008/2008/EC on common rules for the operation of air
services in the Community, November 2016
- European Commission, Interpretative guidelines on Regulation (EC)1008/2008 - Rules on Ownership and Control of EU air
carriers, C(2017) 3711
3712
- European Commission, Public consultation on common rules for the operation of EU air carriers in the internal aviation market,
website
- European Economic and Social Committee, Opinion on operation of air services, 5 July 2017
- Agence Europe, Council should move to similar position to the European Parliament on hiring of aircraft and crew from non-EU
companies, 13 September 2018
- Agence Europe, Coreper endorses general approach on leasing crewed-aircraft to non-EU airlines, 27 September 2018

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The Commission proposed in its 2015 aviation strategy to conduct further studies and in-depth evaluation on Regulation 996/2010/EC on the investigation and prevention of accidents and incidents in civil aviation to make sure it delivers on the EU objectives in the best possible way.

In April 2016, the Commission published a staff working document on the implementation of Regulation 996/2010. It concludes that the ‘Regulation has strongly contributed to the harmonisation of safety investigations at the European level and the organisation of the coexistence of the safety and judicial investigations’. At the same time, it questions whether all Member States are sufficiently prepared to face the challenges of a major accident. The Commission says it will continue supporting preparatory activities and peer review exercises. It also intends to assess the effectiveness/efficiency of the current system of strengthening national accident investigation capability through cooperation. The Commission published the evaluation roadmap of Regulation 996/2010 in June 2016. The Commission launched in July 2017 a public consultation on Regulation 996/2010 to complement the evaluation study. The results of this consultation are expected to be analysed in a Commission staff working document.

The evaluation of the application of the above regulation may lead to the proposal for a legislative action in this field.
The Commission proposed in its 2015 aviation strategy to conduct further studies and in-depth evaluation on Regulation 2111/2005/EC (‘Air Safety List’ Regulation, also known as ‘Black List’ Regulation). It will assess the most efficient ways to further improve the protection of passengers against unsafe air carriers. The Commission published the evaluation and fitness check roadmap of the Regulation in May 2016.

In August 2017, the Commission launched a public consultation on the Regulation 2111/2005 (consultation period: 11 August-7 November 2017). Currently, it is preparing a staff working document on the results of this consultation.

The evaluation of the application of the above regulation may lead to the proposal of a legislative action in this field.

According to this regulation, the Commission regularly updates (last time in June 2018) the list of airlines banned within the European Union.
References:

- Regulation (EC) No 2111/2005 of the European Parliament and of the Council of 14 December 2005 on the establishment of a Community list of air carriers subject to an operating ban within the Community and on informing air transport passengers of the identity of the operating air carrier
- European Commission, Roadmap for the evaluation and fitness check of Regulation 2011/2005/EC on the establishment of a Community list of air carriers subject to an operating ban in the Community, May 2016
- European Commission, Public Consultation on the EU Air Safety List ('Black List of Airlines') Regulation, website
- European Commission, Commission removes all airlines from Indonesia from EU Air Safety List, Press Release, 14 June 2018

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As of 20 October 2018
the EU, out of which approximately 80% are limited liability companies.

The proposal concerning the digitalisation of company law requires Member States to ensure that the registration of companies may be carried out fully online without the necessity for the applicants, or their representatives, to appear in person before any competent authority or before any other person or body dealing with the application for registration. Furthermore, Member States may not make the online registration of a company conditional on obtaining any licence or authorisation before the company is registered, unless where it is indispensable for the proper control of certain activities laid down in national law. The procedure is to be speedy: Member States will have to ensure that the online registration is completed within a period of five working days from the date of payment of the fee and submission of all documents (whichever is later).

On 28 May 2018 it was decided that within Parliament, the proposal shall be dealt with by the JURI Committee. On 9 July 2018 Tadeusz Zwiefka (EPP, Poland) was appointed rapporteur. The IMCO committee, which was called upon to give an opinion, decided not to do so.

On 28 May 2018 the Commission presented the proposal to the Council.

On 26 July 2018, Tadeusz Zwiefka, the JURI rapporteur, presented his draft report, to which amendments have already been tabled. The main changes suggested by the rapporteur include:

- a more detailed definition of the notion of “registration”
- a new rule whereby Member States may require physical presence of the applicant (to register a company) only exceptionally and only on a case by case basis
- a requirement that Member States make a possibility for applicants to make payments online
- a new rule whereby Member States may lay down rules to provide safeguards as regards the reliability and trustworthiness of documents and information to be filed online.

References:

- EP Legislative Observatory, Procedure file on Use of digital tools and processes in company law, 2018/0113(COD)

Further reading:


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As of 20 October 2018

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SERVICES E-CARD

> SERVICES PACKAGE

CONTENT

The Single Market Strategy, which aims to help unlock the full potential of the single market, outlines a set of measures for improving...
the opportunities for businesses and professionals to move across borders. The Commission plans to put forward legislative action to curb regulatory barriers.

Within this framework, the European Commission planned to launch a legislative initiative introducing a ‘services passport’ aiming to enhance cooperation between home and host Member States and help service-providers operating across borders. On receiving a request, the authorities of the home Member State will issue a services passport, which can help to prove that the given service-providers fulfil the requirements applicable to them in the Member State in which they wish to provide their service.

The Member State in which a given service provider wishes to operate will remain responsible for defining these requirements, which must comply with the relevant provisions of EU law.

In its resolution of 25 February 2016 (rapporteur: Catherine STIHLER, S&D, UK), the European Parliament

- welcomed the Commission’s plans to consider an initiative for a services passport and for a harmonised notification form, with the proviso that this initiative will lead to greater transparency regarding the powers of cross-border service providers and will also cut red tape and reduce the administrative burden;
- emphasised that any such initiative should not lead to the introduction of the country of origin principle and
- considered the services passport to be a temporary solution intended for use during the process of transition towards a fully integrated single market.

On 2 May 2016, the European Commission launched a public consultation with stakeholders (service providers and business service customers) on the proposal to introduce the services passport. The consultation closed on 26 July 2016. The consultation gathered further views from stakeholders, as well as first-hand experiences on the remaining barriers in services sectors to the cross-border provision of services in the EU.

On 22 June 2016, the European Commission responded to the Parliament’s resolution. The Commission overall welcomed the recommendations of the resolution as it is in line with many aspects of its policy and of its priority actions under the Single Market Strategy, as well as the 2015 Report on Single Market Integration and Competitiveness in the EU and its Member States.

On 10 January, the European Commission published a proposal for a regulation of the European Parliament and the Council introducing a European services e-card and related administrative facilities.

The European services e-card aims to reduce administrative complexity for service providers that want to expand their activities to other Member States. Simultaneously, it would ensure that Member States can apply justified regulation. The services e-card would be offered to service providers on a voluntary basis in order to show compliance with the applicable national rules. It would allow service providers to use a fully-electronic EU-level procedure to complete formalities when expanding abroad, and would offer them increased legal certainty and significantly reduced administrative complexity. Through the e-card service providers would be able to
avoid administrative obstacles such as uncertainty as to which requirements apply, filling-in disparate forms in foreign languages, translating, certifying or authenticating documents and non-electronic procedural steps. Cost savings related to the formalities covered by the e-card procedure would be significant compared to the existing situation.

The e-card would be issued by the home Member State of the service provider. The host Member States would be able to object to issuance of the e-card in cases where the Services Directive already allows them to do so under one of the overriding reasons of public interest (included in Article 16 of the Service Directive).

Once issued, the e-card would allow the service provider to provide services on a temporary cross-border basis in the host Member State. The European services e-card would apply – in a first stage – to business services and construction services – to the extent the related activities fall already under the Services Directive.

The Commission proposal has been presented in the Council on 13 January 2017.

In the European Parliament, the Committee for Internal Market and Consumer Protection (IMCO) presented its draft report on 27 October 2017. The rapporteur is Anneleen Van Bossuyt (ECR, Belgium). The report focuses on political issues: the services e-card should be of absolute voluntary nature; the decision to suspend or revoke a card should be proportionate; Member States can carry out all controls and verifications laid down by national law in accordance with the Services Directive; existing databases covering the sectors falling within the scope of this Directive should continue to exist in the form they do today. Furthermore, it is important to enable interoperability between the electronic platform connected to IMI and the existing electronic procedures, platforms and registers in Member States. The report was voted in the Committee on 21 March 2018.

Two national parliaments issued a reasoned opinion on the proposal within the 20 March 2017 deadline: the German Bundestag and the Austrian Federal Council, both expressing subsidiarity and proportionality concerns.

The European Economic and Social Committee adopted an opinion on the whole services package on 31 Mai 2017. A section of this opinion refers to the services e-card. The Committee of the Regions also adopted an opinion on the whole services package on 11 October 2017.

References:

- EP Legislative Observatory, Procedure file on European services e-card and related administrative facilities, 2016/0403(COD)
- European Commission, Follow up to the European Parliament resolution on the Single Market governance within the European
Semester 2016, adopted by the Commission on 27 April 2016, SP(2016)269

- European Parliament, Draft report of the Committee on the Internal Market and Consumer Protection on the proposal for a regulation introducing a European services e-card and related administrative facilities
- European Economic and Social Committee, Opinion on the Services package, 31 May 2017
- European Committee of the Regions, opinion on The services package: A services economy that works for Europeans, 13 February 2018

Further reading:

- European Parliament, EPRS, Introducing a European Services E-Card, Legislative Briefing, October 2017

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As of 20 October 2018

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HYPERLINK REFERENCES

CONTENT

The smooth functioning of the single market is one of the key objectives of the European Commission. However, single market rules are often undermined, which, inter alia, results in price discrimination based on residency, limited cross-border parcel delivery or customer segmentation through unjustified territoriality of copyright licensing (e.g. access to online audio-visual content while abroad).

When it comes to enforcing the single market acquis, Member States usually are the Commission’s primary information source. However, Member States often cannot provide the necessary information, because (a) they do not always have information related to the implementation and application of certain single market rules. (b) In the cross-border context, a coordinated effort in requesting information from several Member States is required. Or (c), Member States do not share their collected data and statistics with the European Commission.

The Commission reacted to this information gap. On 2 May 2017, the Commission finally presented a ‘compliance package’ with three proposals on enhancing the practical functioning of the single market, inter alia, the proposal for setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas (COM(2017) 257). This proposal deals with the Single Market Information Tool. SMIT would allow the Commission, amongst others, to request business related information (e.g. cost structure, profits and pricing policy, employment contracts) directly from market participants. The proposal by the Commission is based on Articles 43(2), 91, 100, 114, 192, 194(2) and 337 of the Treaty on the Functioning of the European Union (TFEU).

In the European Parliament, the Internal Market and Consumer Protection Committee (IMCO) became the lead committee on the SMIT file. On 30 May 2017, IMCO appointed Eva Maydell (EPP, Bulgaria) as rapporteur. The Commission made a first presentation on the ‘compliance package’ and SMIT in the IMCO Committee meeting on 21 June 2017. On 11 October, the Commission presented the impact assessment and the proposal in the Parliament. The IMCO Committee’s draft report was presented on 21 November 2017.

On 13 October 2017, the Council Working Party on Competitiveness and Growth published a Working Document from 12 delegations, the ‘Non-Paper on the European Commission’s proposal for a Regulation on the Single Market Information Tool - Contribution by the AT, CY, DE, EL, ES, FR, HR, HU, LV, PL, RO, SK delegations’. The 12 Member States state that, it is ‘unclear’ whether and how the SMIT would deliver a ‘true added benefit’ to the single market since the European Commission would already have ‘sufficient competences.
through the enforcement of competition and state-aid regulations to obtain information and address market distortion caused by market players.’ According to the Non-Paper, the European Commission has failed to provide compelling evidence of cases whereby the existing information requirements or the information obtained are insufficient. Furthermore, the participating Member States doubt that the proposal is ‘in fact lawful’ because of conflicting with the Charter of Fundamental Rights (infringement of the principle of freedom to conduct a business under Art. 16).

As the SMIT proposal has raised some criticism, on 1 February 2018, the European Commission sent a non-paper to Parliament’s IMCO Committee defending the Commission’s choice of legal basis for the proposal. Meanwhile, responding to a request from the IMCO Committee, Parliament’s Legal Service delivered an opinion on the legal basis for the proposal on 27 February 2018. The opinion of the Legal Service is that the correct legal basis for the proposal is Article 337 TFEU. As the Legal Service notes in its opinion, this legal basis does not foresee a legislative role for the European Parliament.

The deadline for amendments was postponed to 27/28 March 2018, and the IMCO Committee decided to request the opinion of the JURI Committee on the legal basis for the proposal under Rule 39(2) of Parliament’s Rules of Procedure.

In the Council, the discussion on the SMIT file continued, inter alia, at the 8 March 2018 meeting of the Working Party on Competitiveness and Growth.

At its July 2018 meeting, the IMCO Committee considered amendments to the report. Three amendments rejecting the Commission’s proposal have been tabled, and four amendments to the legal basis for the proposal. Two of these amendments follow the opinion of Parliament’s Legal Service, namely that Article 337 TFEU is the appropriate legal basis for the proposal.

On 12 July 2018, the IMCO Committee voted on the report. With 31 votes in favour, four against and two abstentions, a single amendment was adopted, following the opinion of Parliament’s Legal Service on the legal basis for the proposal. The single amendment adopted during the vote aims at replacing the above mentioned legal basis by Article 337 TFEU alone. This would entail a change from the ordinary legislative procedure to a non-legislative one as referred to in the third subparagraph of point 25 of the Interinstitutional agreement on better law-making of 13 April 2016 and would require an exchange of views by the Parliament, Council and Commission.

On 10 September 2018, the JURI Committee delivered its opinion and adopted it by 12 votes in favour, none against and 2 abstentions. The JURI opinion came to the same conclusion as the expertise provided by the Legal Service.

The plenary vote, initially scheduled for first October week, has been postponed.

References:
• EP Legislative Observatory, Procedure file on Conditions and procedure by which the Commission may request undertakings to provide information in relation to the internal market, 2017/0087(COD)
  
• European Commission, Proposal for setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas, COM(2017) 257 and accompanying documents
  
• European Commission, Executive Summary of the Impact Assessment, COM(2017) 217
  
  
• European Parliament, Committee on Legal Affairs opinion on the legal basis of the Proposal for a Regulation of the European Parliament and of the Council setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas, 2017/0087(COD), 10 September 2018
  
• European Parliament, Committee on the Internal Market and Consumer Protection report on the proposal for a regulation of the European Parliament and of the Council setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas, 12 September 2018
  
  

Further Reading:

  
• European Parliament, EPRS, Single Market Information Tool, Briefing Initial Appraisal of a European Commission Impact Assessment, October 2017

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As of 20 October 2018
SERVICES NOTIFICATION PROCEDURE

CONTENT

To ensure that all new regulatory measures imposed by Member States are non-discriminatory, justified by public interest objectives, and proportionate, the Services Directive obliges Member States to notify the Commission of new regulatory measures affecting services. Notifications concern both the establishment of a services provider in a Member State and the cross-border provision of services. Despite this, there are still a lot of varying national rules and regulations that do not comply with the notification procedure, and the notifications are sometimes selective or delayed. Furthermore, as much as 90% of notified measures have already been adopted by the Member States. Moreover, notifications are often not transparent, as consumers and businesses have no access to them. The existing notification framework does not provide for an in-depth proportionality assessment which makes it difficult to Member States to assess the proportionality of new requirements for services.

With a view to preparing a proposal to address these issues, the Commission held a public consultation in 2016 in which a large majority considered the current services notifications system unsatisfactory, in particular public authorities who handle the notification procedure, as well as the business community. The consultation shows large support for a series of options which could be included in a forthcoming initiative, in particular: an obligation to notify draft legislation, increased transparency of the notification procedure vis-à-vis non-institutional stakeholders, improvements to the proportionality test undertaken by Member States and clearer legal
consequences of non-notification. Most stakeholders supported the need to give a clear timeframe for the notifying Member State, the Commission, other Member States and stakeholders to interact on a notified draft, before its adoption.

In January 2017, the Commission proposed legislation to improve the notification procedure under the Services Directive 2015/1535. Member States will be obliged to notify measures via Internal Market Information System before the final adoption when adjustments can still be made. Also, they will need to provide more information on proportionality measures and the obligation to notify will cover also additional key requirements such as authorisation schemes. Furthermore, the new procedure will allow better access to the notifications for external stakeholders. After notification, a 3 months consultation period will allow the Member States and the Commission to engage in a dialogue. If after that period the Commission has substantive concerns over the compatibility of a proposed measure with the Services Directive, it may issue an alert followed by a decision on the legality of a given measure. The Decision to bring a measure in line with the Services Directive is binding on the Member State and may only be challenged in the EU Court.

On 31 May 2017 the European Economic and Social Committee adopted its opinion on the proposal. It argued that the impact of the proposal on national legislative procedures appears considerable and that it may possibly obstruct reforms if they are to be taken within a short space of time. The Committee opined that the proposal may restrict national legislators’ freedom and expressed doubt on its appropriateness. The EESC called for making the negative decisions on compliance of draft national laws, regulations or administrative provisions not to be binding.

The Council agreed on its general approach on 29 May 2017. The Council’s text attempted to balance the need to improve the existing notification procedure with the need to respect the principles of proportionality and of subsidiarity, particularly the prerogatives of national parliaments and administrative authorities. The Council specified areas where the notification procedure is not to apply (e.g. collective agreements negotiated by social partners) and clarified various steps of the procedure (such as withdrawal of the notification).

In Parliament, the proposal has been voted by the IMCO Committee on 4 December 2017 which also agreed to enter into interinstitutional negotiations. The Committee proposed to exclude from the scope decisions made for an individual service provider or draft rules laid down in collective agreements negotiated by social partners. The Commission is to prepare guidelines to new notification obligation. The report also proposed to exclude amendments or modifications to draft notified measures - already subject to an ongoing notification procedure - introduced by legislative assemblies at national or regional level from ex-ante notification obligation. It should be notified at the latest two weeks after adoption. However, adding substantive amendments to draft law under notification is to be communicated at least a month before the adoption. The Committee also introduced derogation allowing Member States to adopt measures rapidly in unforeseen circumstances. The report supports giving the Commission power to issue alerts that allow the Member State one month from their receipt to either explain the adequacy of the draft measure or modify it to ensure compliance. Receipt of alert means that the measures should not be adopted for three months. Furthermore, the Commission is to offer stakeholders the possibility of providing electronically feedback on the published notifications, or of alerting the Commission of draft measures or adopted measures which have not been notified in accordance with this Directive. On 14 December 2017, the EP
voted in favour of commencing the trilogues which started on 20 February 2018.

Both the parliamentary chambers in France and Germany issued reasoned opinions concerning the proposal arguing that it is in breach of principles of subsidiarity and proportionality. Austria, Italy and Portugal also made contributions.

References:

- EP Legislative Observatory, Procedure file Services in the internal market: notification procedure for authorisation schemes and requirements related to services, 2016/0398(COD)
- European Economic Area – Standing Committee, EEA/EFTA Comment on the need for improvement of the notification procedure for national legislation pursuant to Articles 15(7) and 39(5) of the Services Directive, 15 November 2016
  - Council, Services package: Council agrees conditions to ease provision of services and mobility of professionals, Press release, 29 May 2017.

Further reading:


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As of 20 October 2018

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ACTION PLAN TO INCREASE AWARENESS OF THE MUTUAL RECOGNITION PRINCIPLE
/ 2015-10

>  Upgrading the Single Market Strategy

CONTENT

In areas where no EU legislation exists, the principle of mutual recognition means that goods are lawfully marketed in one Member State enjoy the right to free movement and can be sold in another Member State. However, inadequate application of mutual recognition makes it harder for companies seeking access to markets in other Member States. The increasing presence on the market of products that are not compliant with EU rules puts law-abiding operators at a disadvantage and endangers consumers. The adoption of the Mutual Recognition Regulation EC 764/2008 in 2008 has been crucial in transferring the burden of proof that products are lawfully marketed elsewhere from economic operators to national authorities.

The Commission’s Work Programme 2016 and adopted inception impact assessment stated that the Commission will likely present an EU-wide Action Plan to raise awareness of the principle of mutual recognition, including specific actions for sectors in which mutual recognition could achieve the greatest increase in EU competitiveness (e.g. construction). Potential tools include training programs for national officials, provision of guidelines and exchange of experiences, systematic review of how the principle is applied, reinforced preventive reinforcement of the principle, regular exchanges between and with responsible national authorities and targeted actions in specific sectors. The plan envisaged originally for 2016 has not been published. In the 2017 Work Programme the Commission mentioned that in 2017 it will ‘act to strengthen the single market in goods, notably by facilitating the mutual recognition.’ On 19 December 2017 the Commission proposed the Regulation on the mutual recognition of goods lawfully marketed in another Member State. The Action Plan has been launched with the proposal. The text mentions specifically that the Regulation provides the basis for an EU-wide action plan to raise awareness on mutual recognition.
References:

- Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC
- European Commission, Inception Impact Assessment: Achieving more and better mutual recognition for the single market for goods
- European Commission, Proposal for a Regulation on the mutual recognition of goods lawfully marketed in another Member State, COM(2017) 796

Further reading:


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Hyperlink References

CONTENT

In areas where no EU legislation exists, the principle of mutual recognition means that goods that are lawfully marketed in one Member State enjoy the right to free movement and can be sold in another Member State. The adoption of the Mutual Recognition Regulation in 2008 has been crucial in transferring the burden of proof that products are lawfully marketed elsewhere from economic operators to national authorities. However, inadequate application of mutual recognition makes it harder for companies seeking access to markets in other Member States. The increasing presence on the market of products that are not compliant with EU rules puts law-abiding operators at a disadvantage and endangers consumers.

The 2016 Communication on ‘Upgrading the Single Market’ announced a possible revision of the Mutual Recognition Regulation. The Commission published a public consultation in which the majority of respondents underlined that despite high level of awareness about mutual recognition, awareness-raising remains necessary. Main obstacles to the functioning of mutual recognition identified by businesses were the lack of rapid remedies for challenging national decisions denying market access and insufficient communication among authorities.

On 19 December 2017 the Commission proposed the Regulation on the mutual recognition of goods lawfully marketed in another Member State. It concerns products which are not fully or partially subject to common EU rules, but rather may come under national rules (e.g. shoes or furniture). Companies which wish to market such products in another Member State often face barriers, delays in the process and extra costs. In order to reinforce the principle of mutual recognition for such goods the new Regulation proposes to reinforce a network of product contact points which will facilitate the communication between authorities and businesses and provide the latter with often very technical information on product rules and procedures. The Commission also proposes to enhance cross-border cooperation between contact points and enable the authorities to connect with each other via an online platform. Furthermore, the proposal introduces new voluntary mutual recognition declaration, to be filled by economic operators, which will certify that the product is already on sale elsewhere in the EU. This aims to reduce administrative burdens (presently requirements vary from a simple invoice to official declaration by a Member State that the product is lawfully marketed there). Another important element of the proposal is a problem solving procedure. Currently companies denied access to a market must revert to courts which is a costly and lengthy process. The new system proposes to use existing SOLVIT mechanisms to find amicable solution. If this fails the Commission may issue an opinion and make recommendations to help the parties reconcile.

In the European Parliament, the Internal Market and Consumer Protection Committee (IMCO) has been allocated the file. The draft
The report has been published on the 19 April 2018. The amendments have been tabled on the 22 May and the Committee voted on the report in September 2018 paving the way for interinstitutional negotiations. The Rapporteur has negotiated 21 compromise amendments, all of which were supported by the majority of the political groups. On 12 October, the decision to enter into interinstitutional negotiations was confirmed by plenary.

The report proposed to add request for additional testing and/or duplication of tests to the list of possible obstacles of free movement of goods and obligation to clearly justify why market access is refused. It also asked the Commission to provide guidance on the concept of overriding reasons of public interest and on how to apply the principle of mutual recognition. Furthermore the report proposes that the Commission keeps online and develops an indicative and non-exhaustive list of types of goods which are subject to this Regulation and that the Member States provide for single market clauses in their national technical rules which ensure mutual recognition of goods lawfully marketed elsewhere in the EU. The role of SOLVIT centres has been strengthened, for example they should be informed by the Commission about its communications with the economic operator or competent authority. The report also clarifies definitions of ‘serious risk’ and ‘conformity assessment body’ and proposes to shorten the deadline to communicate decision on assessment of goods from 20 to 15 working days and set the maximum time for the Commission to issue an opinion when asked to do so by SOLVIT centre to 2 months. The Commission is also to establish a Coordination Group of representatives from the competent authorities and the Product Contact Points of the Member States to enhance cooperation between all the actors and facilitate the exchange of officials. Furthermore, an explicit link to the Transparency Directive (EU) 2015/1535 has been added.

The Council agreed on a general approach on 28 May 2018. It proposed to clarify the scope of mutual recognition, introduce a self-declaration to make it easier to demonstrate lawful marketing of goods in a member state, establish a non-judicial problem-solving procedure to provide solutions to citizens and businesses concerning compatibility of an administrative decision denying or restricting market access with the principle of mutual recognition, and set up an efficient administrative cooperation to enhance the exchange of information and trust among national authorities.

References:

- EP Legislative Observatory, Procedure file on mutual recognition of goods lawfully marketed in another Member State, 2017/0354(COD)
- European Commission, Proposal for a Regulation on the mutual recognition of goods lawfully marketed in another Member State, COM(2017) 796
- Regulation (EC) No 764/2008 of the European Parliament and of the Council of 9 July 2008 laying down procedures relating to the application of certain national technical rules to products lawfully marketed in another Member State and repealing Decision No 3052/95/EC
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**Further reading:**

• European Parliament, EPRS, *Mutual recognition of goods*, Briefing, January 2018

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As of 20 October 2018

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RAIL PASSENGERS’ RIGHTS AND OBLIGATIONS (RECAST)

CONTENT

Regulation (EC) No 1371/2007 defines rail passengers’ rights and obligations. In force since December 2009, it establishes fundamental rights with regard to information, availability of tickets, assistance, compensation in case of delay, cancellation or accident, free-of-charge assistance for disabled persons or those persons with reduced mobility (DPRM) and complaint-handling mechanisms. In a 2013 report, the European Commission highlighted certain issues on the application of the regulation, which were confirmed in a 2017 impact assessment. In September 2017, the Commission decided to put forward a recast of the regulation to remedy these issues with a view to improving the quality of rail services. The new proposal aims at striking the right balance between the protection of EU rail passengers and the interests of rail operators.

It focuses firstly on a more uniform application of the rules, removing exemptions for cross-border urban, sub-urban and regional services and, by 2020, for long-distance domestic services. In order to apply consistently the UN Convention on the Rights of Persons with Disabilities, the proposal reinforces DPRM’s rights. Information and assistance should be mandatory for these persons on all train services, as well as compensation for loss or repair of mobility equipment. Disability awareness trainings should be also provided for staff. The proposal improves information to passengers about their rights, for instance printing it on the tickets or providing it on board. This provision applies also to customers buying through-tickets, as they should know whether their rights apply to the whole trip or only to some segments.

To strengthen enforcement, the recast regulation describes in more detail the complaint-handling process and deadlines. Most importantly, it introduces a ‘force majeure’ clause, which exempts rail operators from paying compensation in the event of delays caused by natural catastrophes, which they didn’t cause or could not prevent. This provision aligns rail passengers’ rights with those of other transport modes, which benefit already from force majeure exemptions.

On 25 October 2017, the European Parliament’s Committee on Transport and Tourism (TRAN), responsible for the file, appointed Bogusław Liberadzki (S&D, Poland) as rapporteur. On 20 February 2018, TRAN Committee organised a hearing on rail passengers’ rights in the EU. The Commission proposal was generally welcomed. A consensus was noted on the need to clarify the issue of through-tickets, to remove the exemptions for regional and sub-urban services and to strengthen National Enforcement Bodies (NEB)’ powers. On 26 February 2018, EP TRAN Committee published its draft report. The rapporteur stressed in it that, on the one hand, EU railways have to provide customers with excellent services at an affordable price and, on the other, it is necessary to keep administrative burden as low as possible for rail operators. He suggested to terminate Member States’ exemptions for long-distance domestic services in December 2024, as provided by the existing regulation. The draft report strongly supported the access to rail transport for DPRMs and underlined the need to train staff for that purpose. The rapporteur proposed to reduce the prenotification notice for DPRMs, not exceeding 24 hours. On force majeure, he suggested to introduce a broader definition, as set out in the Uniform Rules concerning the Contract for international carriage of passengers and luggage by rail (CIV). The latter does not cover only severe weather conditions and major natural disasters, but all unexpected circumstances out of the control of rail companies. The opinion of
the EP Committee on the Internal Market and Consumer Protection was published on 5 June 2018.

637 amendments were tabled in TRAN Committee on 3 April 2018. On 20 June 2018, the TRAN Committee gathered to consider compromise amendments. The rapporteur explained that compromises had been found on DPRM’s rights and the use of standardised format for complaints. TRAN members generally supported the deletion of the force majeure clause and some of them underlined the need to equip trains with designated spaces for bicycles. On 9 October 2018, TRAN Committee voted and adopted 25 compromise amendments modifying the draft report. The Committee proposed to delete the force majeure clause, included regional services in the scope of the regulation, and introduced a more precise definition of through-tickets. It also reinforced the right of passengers to carry bicycles on board. Besides, the Committee increased the compensation levels of the ticket price in case of delay: 50 % of the ticket for a delay between 60 and 90 minutes, 75 % for a delay between 91 and 120 minutes and 100 % for a delay above two hours. Regarding assistance in stations for DPRM’s, the report reduced the pre-notification period from 48 to 12 hours. TRAN Committee adopted the amended draft report with 39 votes in favour, 2 against and 6 abstentions.

On 19 February 2018, the Consultative Working Party consisting of the legal services of the European Parliament, the Council and the Commission issued its opinion. It concluded that the Commission proposal doesn’t contain any substantive amendments other than those identified as such and provides for a straightforward codification of the existing legal text.

The Council Working Party on Land Transport started its work on this file in September 2017 under the Estonian presidency and continued until the end of March 2018 with the Bulgarian presidency. A progress report was published on 16 May 2018. The introduction of the force-majeure clause and the reinforcement of DPRM’s rights were widely supported. The views on through-tickets were mixed. The subsequent Austrian Presidency declared in July 2018 that it would attach great importance to the ongoing negotiation on the proposal.

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As of 20 October 2018

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HYPERLINK REFERENCES

PROPOSAL FOR A DIRECTIVE ON THE MINIMUM LEVEL OF TRAINING OF SEAFARERS

CONTENT

High level of maritime safety and prevention of pollution depend on skills and knowledge of EU seafarers, the quality of which is ensured by appropriate maritime training and certification. The relevant international rules are set by the International Maritime Organisation Convention on Standards of Training, Certification and Watchkeeping for Seafarers (the ‘STCW convention’) of 1978. The STCW provisions were transposed into EU law by directive 2008/106/EC on the minimum level of training of seafarers and directive 2005/45/EC on mutual recognition of seafarers’ certificates.

The STCW Convention was revised in 2010 and further amended in 2015 (training of seafarers working on ships using gases or other low-flashpoint fuels) and in 2016 (training of seafarers working on passenger ships and ships operating in polar waters). EU rules need to incorporate these changes. Furthermore, the Commission reviewed both directives within its regulatory fitness and performance programme (REFIT) and found some shortcomings that need addressing.

On 24 May 2018 the Commission published a proposal for a new directive on on the minimum level of training of seafarers. The aim of the proposed directive is to incorporate the recent STCW amendments and eliminate the existing shortcomings, by changes to the directive 2008/106/EC and repealing directive 2005/45/EC. The main changes concern:

- the improvement of the existing centralised mechanism for the recognition of the maritime education and certification systems of third countries,
- the extension of the reassessment period for the already recognised third countries (countries providing few seafarers would be reassessed less often than those that provide many seafarers certified outside the EU),
- the de-recognition of third countries that for at least five years have not provided any master or officer in the EU fleet.

The European Parliament, addressing general transport issues in 2015, called on the Commission to address the quality of work in all transport modes, in particular as regards training, certification, working conditions and career development. The aim was to create quality jobs, develop the necessary skills and also resolve the issue of labour turnover in the transport sector and make working in the sector attractive to new generations.

During the negotiations of the would-be 2015 directive on seafarers, the Parliament stressed the need for an increase in the number and quality of maritime jobs and the importance of investment in - among others - education and training.
In a 2012 report on the minimum level of training of seafarers, the Parliament reminded that the quality of training for seafarers is closely linked to the EU’s competitiveness in the maritime sector and must be given particular attention. It also insisted that the EU should combat the proliferation of fraudulent certificates of competency to ensure good quality standards of training for seafarers.

In the Parliament, the Committee on Transport and Tourism (TRAN) is leading the file, while the Committee on Employment and Social Affairs (EMPL) is giving an opinion. On 5 July 2018 Dominique Riquet was appointed rapporteur of the file in TRAN Committee.

Discussions in the Council have started at the Shipping Working Party level.

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- EP Legislative observatory, Procedure file on Minimum level of training of seafarers, 2018/0162(COD)
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As of 20 October 2018
EMPOWERMENT OF NATIONAL COMPETITION AUTHORITIES (NCAS)

CONTENT

Council Regulation (EC) 1/2003 has contributed to stronger enforcement of antitrust rules within the EU since it came into force on 1 May 2004, modernising the enforcement of EU antitrust rules on restrictive business practices (Article 101 TFEU) and abuse of dominant market positions (Article 102 TFEU). The Regulation also created the European Network of Competition Authorities (ECN), within which the Commission and national competition authorities coordinate the application of EU antitrust rules.

The Commission’s Communication on Ten Years of Council Regulation (EC) 1/2003, however, identified a number of potential areas of action to make the national competition authorities more effective enforcers. The Regulation gave NCAs the competence to apply the EU competition rules, but it did not tackle the means and instruments by which NCAs apply those rules. As a result, NCAs encounter difficulties in carrying out their work and in tapping their full potential. By ensuring that NCAs can act more effectively, the Commission’s proposal aims at promoting the overall goals of competitive markets that deliver more jobs and growth.

On 22 March 2017, the European Commission presented a legislative proposal to empower the national competition authorities (NCAs) of the Member States to be more effective enforcers (in short: ECN+ Directive). The proposal aims to ensure that when
applying the same legal basis - the EU antitrust rules - NCAs have the appropriate enforcement tools. As a directive, the proposal intends to provide for minimum standards whereas Member States’ national specificities will be respected.

The European Commission and the NCAs work closely on enforcing the EU antitrust rules in the framework of the European Competition Network. This network underpins the coherent application of the EU antitrust rules by all enforcers. Since 2004, the Commission and NCAs have adopted over 1000 decisions, investigating a broad range of cases in all sectors of the economy.

The Commission proposal follows the public consultation on empowering national competition authorities to be more effective, which the Commission conducted from 4 November 2015 until 12 February 2016. The Commission received 181 replies from various stakeholders, whereas 80% supported the future enforcement of NCAs.

The Commission proposal, inter alia, will provide the NCAs with a minimum common toolkit and effective enforcement powers in order to:

- act independently when enforcing EU antitrust rules, i.e. without taking instructions from public or private entities;
- have the necessary financial and human resources;
- have the powers needed to gather all relevant evidence, e.g. the right to search mobile phones, laptops and tablets;
- have adequate tools to impose proportionate and deterrent sanctions for breaches of EU antitrust rules. The proposal includes also rules on parental liability and succession so that companies cannot escape fines through corporate re-structuring. NCAs will also be able to enforce the payment of fines against infringing companies that do not have a legal presence on their territory;
- have coordinated leniency programmes which encourage companies to come forward with evidence of illegal cartels.

There has been a mandatory consultation of the Economic and Social Committee (EESC). The EESC appointed Juan Mendoza Castro to draft the opinion on the Commission proposal. The opinion was adopted in the EESC plenary on 5 July 2017. The EESC welcomes the Commission’s proposal, but proposes that, ‘in future, consideration should be given to the content of civil and administrative law being governed by means of a regulation, with the Member States retaining full autonomy with regard to criminal legislation.’

On 19 April 2016, the European Parliament’s Committee on Economic and Monetary Affairs (ECON) and the Commission’s Competition Directorate General co-organised a public hearing on the ECN+ Directive.

ECON is the lead committee on the Commission proposal. In March 2017, ECON appointed Andreas Schwab (EPP, Germany) as rapporteur. The Internal Market and Consumer Protection (IMCO) Committee has provided an opinion. The draft report was presented on 9 October 2017 and adopted in the ECON Committee on 27 February 2018.

Also the Council started working on the Commission proposal. In May 2017, the Council took note of a presentation by the Commission and started the technical examination of the proposal in its preparatory bodies. The Council's Working Party on Competition has put the examination of the Commission proposal on the agenda of its 9 October meeting. In November 2017, the
Council presented an examination of the Presidency compromise proposal regarding Recitals 29-34 and Articles 1-15. The Council’s Working Party on Competition dealt with the file on 8 December 2017. The topic will be again on the Council’s agenda on 21 March 2018.

On 13 March 2018, the European Parliament took decision to enter into interinstitutional negotiations confirmed by plenary (Rule 69c).

On 30 May 2018, Parliament and Council reached an interinstitutional agreement in trilogues and entered the finalisation stage on the ECN+ Directive.

In the Council, the Permanent Representatives Committee (COREPER) confirmed the compromise text on its 20 June 2018 meeting.

The ECON Committee adopted the compromise text on 11 July, the plenary vote on the final report is foreseen for 13 November 2018.

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As of 20 October 2018

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UNION LEGAL FRAMEWORK FOR CUSTOMS INFRINGEMENTS AND SANCTIONS

CONTENT

The proposed directive on Union legal framework for customs infringements and sanctions aims to establish a framework for breaches of the Union’s Customs legislation and provide for common rules regarding the enforcement of penalties applicable where they are infringements.

Customs legislation is fully harmonised. However, its enforcement is defined in national law, resulting in 28 different sets of legal rules, and as many different administrative or legal traditions. As a result, a given infringement can lead to substantial differences in sanctions across the EU. This was highlighted by a Project Group put in place by the Commission in 2013. The Commission concluded that (i) the different sanction systems led to concerns in some WTO Member States relating to the EU’s compliance with international obligations, (ii) the divergences made the effective management of the customs union more difficult, and (iii) the divergences

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between Member States could impact on the level playing field. Responding to the EP's request and based on its own analysis, the Commission decided to make a legislative proposal setting a common legal framework for the treatment of customs infringements and sanctions, which was published on 13 December 2013.

The EP had already requested action to be taken in this field in 2008 and through own initiative reports in 2008 and in 2011 (2007/2256) and 2011/2083(INI)).

The EP's Internal Market and Consumer Protection Committee (IMCO) adopted a report on 14 July 2016, followed by the adoption of the report in plenary on 25 October 2016. Parliament concentrates its focus on a number of points, including the clarification of what constitutes an infringement. It favours only having negligence and intentional infringements sanctioned, but opens the possibility for Member States to go beyond that and impose criminal sanctions if the nature and gravity of the infringement requires it. It insists that no person be penalised twice for the same offence. Parliament listed factors and circumstances determining the classification of minor and serious infringements. It requested the addition of a number of items to the list of infringements and omissions. It also rejected the notion that the amount of a fine is based on the value of goods, but rather that it should be based on the amount of evaded duties, for which an upper level of fines is proposed. Other sanctions, such as the confiscation of goods are added. Member States would also have to offer the possibility of a settlement system as an alternative to juridical proceedings. Parliament proposed that a cooperation system including all Member States should be established, and also requests Article 114 TFEU to be added as a legal base for this directive. The matter was referred back to the IMCO committee on 25 October 2016, with the aim of opening trilogue negotiations with Council and Commission.

However, this proposal met strong opposition in Council (with some Member States requiring the proposal to be withdrawn), which resulted in a suspension of the Council's article-by-article discussion in 2013. As no trilogue negotiation could take place, the EP report, which had been referred back to the IMCO committee, was formally and definitively adopted in plenary on 5 July 2017. This vote is not to be seen as a form of progress of the dossier, which in the legislative trains' terminology remains in the 'On hold' category.

The European Economic and Social Committee (EESC) adopted an opinion (Rapporteur-general Antonello Pezzini, Group I, Italy) on 21 September 2016.

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As of 20 October 2018

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REVISION OF REGULATION ON AIR PASSENGER RIGHTS AND OF REGULATION 2027/97 ON AIR CARRIER LIABILITY IN RESPECT OF THE CARRIAGE OF PASSENGERS AND THEIR BAGGAGE BY AIR

CONTENT
The legislative process to review air passenger rights is still ongoing. It is currently awaiting Council’s position. In the meantime, the Commission has adopted interpretative guidelines in order to provide guidance to citizens and airlines on the current state of the law, relevant until amendments become applicable. The Commission will also evaluate how to further promote cooperation between the National Enforcement Bodies and the authorities in charge of horizontal consumer rules.

Regulation 261/2004 on air passenger rights and Regulation 2027/97 on air carrier liability in respect of the carriage of passengers and their baggage by air have significantly contributed to protecting air passenger rights. However, a number of shortcomings revealed during the implementation have prevented their full potential from being realised.

The revised proposal, which the European Commission adopted in March 2013, aims to promote the interest of air passengers by ensuring that air carriers comply with a high level of air passenger protection during travel disruptions, while taking into account the financial implications for the air transport sector and ensuring that air carriers operate under harmonised conditions in a liberalised market.

It clarifies the definition of ‘extraordinary circumstances’ in case of flight cancellations or delays, introduces the right to be rerouted on other carriers or modes of transport, after a delay of 12 hours (if the airline cannot reroute passengers using its own services). It also forbids airlines, in principle, from denying boarding to passengers who do not take the outward journey of a return flight. The proposal sets out the rights of passengers when their aircraft is delayed on the tarmac and provides that passengers should have a right to information about the flight disruption as soon as the information is available.

Other provisions limit the impact of potential costs for airlines and reduce passenger rights. For example, the Commission limits the obligation to pay for accommodation in case of major disruptions to three nights and €100/night, per passenger.

The proposal clarifies the role of the National Enforcement Bodies and requires air carriers to inform passengers, at the time of reservation, about their claim and complaint handling procedures and to provide an electronic means to submit complaints. Lastly, the proposal ensures better enforcement of passenger rights with regard to mishandled baggage.

In its first reading position on the Commission proposal, adopted in February 2014, the Parliament (rapporteur Georges Bach, EPP, LU) added several measures in favour of air passengers, proposing further restrictions to grounds for denying compensation, assistance and information to passengers. It suggested, for instance, that airlines should pay for accommodation in case of delays and cancellations for five nights at €125/night per passenger, provide a contact point at each airport from which they operate, and create a guarantee fund, or subscribe to insurance, for cases of bankruptcy. It also introduced an exhaustive list of extraordinary circumstances, proposed to increase the number of free-of-charge items of baggage allowed on board, introduce a full definition of ‘disabled person or person with reduced mobility’, and make information about passenger rights, contracts and complaint handling accessible to all.

Other amendments, however, would limit passengers’ possibilities to claim compensation. For example, passengers missing a connecting flight, would have, according to the Parliament’s amendment, a right to compensation only if the first flight is delayed by least 90 minutes.

Following the cancellations of thousands of flights by Ryanair, Members debated in plenary in October 2017 the issue of air passengers rights and their enforcement. The European Commission underlined on this occasion the need to comply with Regulation 261/2004 and highlighted the importance of having a comprehensive framework for passengers rights, the revision of which is subject of the above proposal.

Although Council has held debates on the Commission’s proposal since October 2013 and made some progress on the file, it has not agreed on a general approach for negotiations with the Parliament. Delegations have expressed different views on, for example, the
following issues:

- whether the list of extraordinary circumstances should be included as a separate fully binding list;
- thresholds for compensation in case of cancellation and delay;
- whether compensation for missed connecting flights should be excluded or if airlines can have a partial exemption in certain circumstances;
- whether dispositions on the 'one-bag rule' for hand luggage should be included in the Regulation.

This and other ongoing aviation files remain on hold within the Council, pending resolution of the dispute between Spain and the UK over the inclusion of Gibraltar's airport in the Regulation.

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As of 20 October 2018
The objective of the Single European Sky (SES) is to reform the architecture of air traffic control in the EU, in order to meet future capacity and safety needs. This should be achieved through improving the overall performance of air traffic management (ATM) and air navigation services (ANS), with the specific aims of increasing airspace capacity threefold (so reducing delays), improving safety performance tenfold, reducing by 10% the environmental impact of flights and reducing ATM costs by 50%.

Though the SES initiative has delivered some results, such as some reduction in air traffic delays, the maintenance of safety levels, and a halting of the constant growth in ATM costs, the SES is experiencing significant delays, in particular in the achievement of the performance goals and the deployment of its basic elements such as Functional Airspace Blocks (FABs).

Building on past experience, without departing from the original objectives and principles, the European Commission has undertaken a revision of the SES legal framework, with a view to speeding up its implementation. In June 2013, it proposed the SES2+ legislative package, consisting of the recast of the four main regulations creating the SES and the amendment of the Regulation on the European Aviation Safety Agency (EASA), accompanied by a Communication entitled ‘Accelerating the implementation of the Single European Sky’.

Aiming to improve oversight, safety, performance and competitiveness, the main elements of the package, in particular of the recast of the four main regulations 2013/0186(COD), include reinforcement of the National Supervisory Authorities’ (NSA) independence through organisational and budgetary separation of the NSAs from the Air Navigation Service Providers (ANSP) they supervise, as well...
as a strengthening of the performance scheme, by making target-setting more independent, transparent and enforceable with a stronger role for the Commission, allowing for the tailoring of national targets at local level. It also plans the opening-up of certain support services such as meteorology, aeronautical information, communications, navigation and surveillance services, traditionally bundled with ATM provision, to competitive tendering under normal procurement rules, although the core of air traffic control would remain unaffected. More flexible rules may be established for FABs allowing for better cooperation among service providers, and for them to turn into industrial partnerships. A reinforcement of the role of the network manager is also foreseen.

The legislative proposal for a regulation on the implementation of the Single European Sky (recast) was published by the Commission in June 2013. In March 2014 the EP adopted its first reading position on the proposal.

In its legislative resolution of 12 March 2014 on the recast proposal, the EP tightened the provisions on the independence of NSAs, confirming that they should be legally distinct and independent, in particular in organisational, hierarchical and decision-making terms, as well as having separate annual budget allocations.

The EP additionally pointed out that there should be no statutory impediments to providers of support services that would prevent their ability to compete within the EU. However, before moving forward, the EP requested the European Commission to conduct a comprehensive study on the operational, economic, safety and social impacts of the introduction of market principles to the provision of support services, and to submit that study by 1 January 2016. The EP underlined that the Union-wide performance targets should be set with a view to ensuring that each functional airspace block retains sufficient flexibility to achieve the best results. Concerning the proposition to turn FABs into industrial partnerships, the EP stipulated that the latter should be separate from FABs, which are state initiatives and considered as a separate type of cooperation. Members pointed out that FABs need to be established, thus following the Commission’s approach for greater cooperation among service suppliers and airlines to get round national barriers.

In its resolution of 16 February 2017, the EP urged the Council and Member States to make swift progress on deadlocked dossiers including this one and called on the Commission ‘to rethink ongoing initiatives and propose viable alternatives to remove the deficiencies of the aviation sector resulting from the late and incomplete implementation of EU legislation such as the Single European Sky (SES)’.

In its Aviation Strategy for Europe the European Commission urged the Council and the European Parliament to adopt the SES2+ proposals in order to ensure the effectiveness of functional airspace blocks and network functions and the swift implementation of the EU-wide targets for the performance scheme based on a fully independent performance review body. The Commission foresaw the adoption of the file in 2016.

The legislative process remains blocked in the Council pending resolution of the disputed question over Gibraltar’s status.

On 13 July 2018, in a Joint Statement, the EU Commissioner for Transport, Violeta Bulc, and the Chair of the European Parliament’s Committee on Transport and Tourism, Karima Delli, recalled the unfortunate blockage of the SES2+ package and called on Member States and stakeholders to help build an efficient air traffic infrastructure.

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As of 20 October 2018
The aim of the proposal was to recast the EEC Regulation 95/93 (which has been amended several times) on the allocation of airport slots (Slot Regulation). The intention is to ensure optimal allocation and use of airport slots in congested airports as well as to ensure strengthened and effectively implemented slot allocation and use including the enhancement of fair competition and the competitiveness of operators.

The implementation of the Slot Regulation has improved slot allocation at busy European airports in terms of neutrality and transparency, contributing to the creation of the internal market in aviation.

However, conceived at a time when the European air transport market was still dominated by a small number of traditional national carriers, the current rules are deemed to be inadequate in view of current and future traffic, and the fact that airports are unlikely to see any major capacity or infrastructure upgrades. Current rules are also considered as preventing the optimal use of the scarce capacity available at busy airports, with the ‘grandfather clause’ seen as effectively leaving capacity unused, and allowing airlines to avoid selling their underused slots to other airlines that could make better use of them. Another criticism is that they do not facilitate entry into the market by new players.

Therefore, it was necessary to review the Slot Regulation to improve and ensure optimal allocation and use of airport slots in congested airports. This initiative is part of the December 2011 Commission’s Airports Package, which included a Communication on ‘Airport policy in the European Union –addressing capacity and quality to promote growth, connectivity and sustainable mobility’, and two other legislative proposals, one on groundhandling services and the other on noise.

The legislative proposal to review the Slot Regulation has been published in December 2011, the Council adopted its general approach in October 2012 and the EP adopted its first reading position in December 2012.

In this first reading position the EP introduced a number of additional measures designed to strengthen the independence of slot coordinators across Europe, and make slot allocation more transparent. While the draft regulation stated that in legal terms, the coordinator’s essential functions, which consist of allocating slots in an equal and non-discriminatory manner, shall be given to a natural or legal person who or which is not a service provider in the airport, an airline operating from the airport or the managing body of the airport in question, the EP added that the coordinator or schedules facilitator must submit an annual declaration of his/her/its financial interests in order to prove that he/she/it does not share common interests with any such entities. It also added that the composition of the coordinator’s board or supervisory function shall be independent of the direct interests of the airport managing body, the airline users of that airport and any other entity representing a user or service provider. It rejected the proposals to raise the slot series usage rate to 85% and increase the minimum number of weekly slots for priority allocation. However, the EP supported penalties for the late hand-back of slots by airlines, stipulating notably that the system of penalties shall be revenue-neutral for the airport managing body and shall be aimed solely at increasing the efficiency of time slot allocation. In its resolution of 16 February 2017, the EP urged the Council and Member States to make swift progress on deadlocked dossiers including this one.

The European Commission in its ‘Aviation Strategy for Europe’ urged the Council and the EP to swiftly adopt the revised regulation in order to enable the optimal use of the busiest airports and provide clear benefits to the EU economy. The Commission foresaw the
adoption of the file in 2016.

The proposal is at present waiting for Council’s first reading position and remains blocked in the Council pending resolution of the disputed question over Gibraltar’s status.

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As of 20 October 2018

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EU CERTIFICATION SYSTEM FOR AVIATION SECURITY SCREENING EQUIPMENT

CONTENT

The European Agenda on Security, adopted by the Commission in April 2015, underlined the importance of a competitive EU security industry contributing to the EU’s autonomy in meeting security needs. In the follow up to the terrorist attacks of 22 March 2016 in Brussels, the Commission adopted a Communication on delivering the European Agenda on Security to fight against terrorism and pave the way towards an effective and genuine Security Union. It announced that the Commission would, by September 2016, propose EU-wide rules on certification of airport screening equipment. The initiative had earlier been announced in a 2012 Commission Communication on Security Industrial Policy, which mentioned that subject to a thorough impact assessment analysis and consultation of stakeholders, the Commission would propose a legislative proposal on a EU wide harmonised certification system for aviation security screening equipment. The proposal for a Regulation establishing a Union certification system for aviation security screening equipment was adopted by the Commission on 7 September 2016 together with the impact assessment and related executive summary. Aviation security screening equipment refers to the security equipment used for screening persons, cabin and hold baggage, supplies, air cargo and mail.

The overall objective of the proposal is ‘to contribute to the proper functioning of the EU internal market to increase the global competitiveness of the EU industry by establishing an EU certification system for aviation security equipment’. Such a system will be based on EU type-approval and issuance of certificate of conformity by manufacturers, which would be valid in all EU Member States, according to the principle of mutual recognition.

The proposal is based on existing regulations EC 300/2008 and EU 185/2010. Regulation (EC) 300/2008 already defined the technical specifications and performance requirements for aviation security screening equipment used at EU airports and Member States, in cooperation with the Commission, had already developed in the framework of the European Civil Aviation Conference (ECAC) common testing methodologies (the 2008 Common Evaluation Process) for different categories of aviation screening equipment. However, the system did not include a legally binding EU-wide conformity assessment scheme to ensure that the requirement standards are met by all EU airports. Member States remained free to recognise or not the certification provided in another Member State.

The Commission proposal will thus establish a legally binding certification system. This certificate will be valid throughout the EU and based on the principle of mutual recognition by all Member States. Each Member State shall designate an approval authority, competent for all aspects of the approval of equipment as well as for issuing, amending, withdrawing EU type-approval certificates and manufacturers will issue a certificate of conformity to accompany each piece of equipment manufactured in conformity with the...
type and configuration covered by an EU type-approval certificate. As there are already detailed performance requirements and testing methods, the proposal does not aim to add more technical legislation.

The European Parliament has not yet issued a position on the file but has appointed Luis de Grandes Pascual (EPP, Spain) and Anneleen van Bossuyt (ECR, Belgium) as rapporteurs (Joint Internal Market and Consumer Protection/Transport and Tourism committee under rule 55 of the EP Rules of Procedure). A first meeting of this joint committee took place in July 2017. During the meeting, Members discussed latest developments in Council, where certain Member States wished the Commission to withdraw the proposal, while the Commission committed to redraft part of the proposal to meet Council’s main concerns.

Discussions during the Joint committee focused and revealed diverging positions on both content and procedure and the Chairs of both committees concluded the meeting by asking the Commission to provide to the European Parliament a clear assurance that the proposal has enough support in the Council in order for the Parliament to start its work.

Since then no further development took place. Therefore, work and progress on the proposal appear to be blocked.

At the Council, the dossier was referred to the Aviation Working Party.

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Further reading:

- European Parliament, EPRS, EU certification of aviation screening equipment, Briefing, July 2017

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In July 2014, the Commission adopted the Communication 'Towards a renewed consensus on the enforcement of Intellectual Property Rights: An EU Action Plan' according to which the Commission seeks to re-orientate its policy for intellectual property enforcement towards better compliance with intellectual property rights (IPR) by all economic actors.

The Commission announced it would assess a series of possible actions:
• Action 1: Raise awareness amongst citizens, especially young people on the economic harm caused by commercial scale IP infringements and on the potential health and safety risks associated with IPR-infringing products.
• Action 2: Develop an EU due-diligence scheme to prevent commercial scale IP infringements.
• Action 3: Facilitate the development of a further voluntary Memoranda of Understanding to reduce the profits of commercial scale IP infringements in the online environment, following stakeholder dialogues involving advertising service providers, payment services and shippers.
• Action 4: Analyse and report on existing national initiatives seeking to improve IP civil enforcement procedures for small and medium sized enterprises (SMEs), in particular in respect of low value claims and consider possible action in this field.
• Action 5: Consult stakeholders on the need for future EU action based on the best practice found in nationally financed schemes assisting SMEs to enforce their IP rights.
• Action 6: Consult stakeholders on the impact of chargeback and related schemes to tackle commercial scale IP infringements and explore the need and scope for taking concrete action in this field.
• Action 7: Establish a Member State Expert Group on IP Enforcement, where Member States could share best practice on the work within the EU of all their concerned authorities and be informed on the delivery of this Action Plan.
• Action 8: Support the European Observatory on Infringements of Intellectual Property Rights in the development of a comprehensive set of sectoral IP enforcement related training programmes for Member State authorities in the context of the Single Market.
• Action 9: Develop, promote and publish a guide on best practice for public authorities to avoid purchasing counterfeit products.
• Action 10: Publish a biennial report on the economic impact of the EU’s IP policy that could serve as a more effective monitoring tool for the EU’s new IP enforcement policy as set out in this Communication.


• The European Parliament welcomed the Commission’s Action Plan.
• According to the Parliament, the key objective should be to ensure the effective, evidence-based enforcement of IPR, which plays a key role in stimulating innovation, creativity, competitiveness, growth and cultural diversity.
• Ensuring fair remuneration for creators should as well be a crucial element of the EU Action Plan. To that end, the Parliament, inter alia, stated that all actors in the supply chain have a role to play in the fight against IPR infringement and should be involved in this process.
• Furthermore the Parliament stressed the importance of ensuring the application of due diligence throughout the supply chain, the need for operators in the industry to exchange information about platforms which provide access to content that infringes IPR, the importance of sector-based agreements and good practice guides to combat IPR infringements, the involvement of organised crime in international IPR-infringing activities.
• Moreover, Parliament’s resolution emphasised the importance of improving civil enforcement procedures for SMEs and
individual creators as regards IPRs and called on the Commission to adapt the EU legislative framework regarding IPR infringement to the internet environment.

On 29 November 2017, the Commission adopted a comprehensive package to address the issues identified in the Action plan comprising:

- A Communication, 'A balanced IP enforcement system responding to today's societal challenges'
- A Communication providing guidance and clarifying certain provisions of the IPR enforcement Directive to ensure a more homogenous interpretation in Europe
- An evaluation report and study on the Directive on the enforcement of IPR
- A Communication, 'Setting out the EU approach to Standard Essential Patents'
- An Overview report on the functioning of the Memorandum of Understanding on the sale of counterfeit goods via the internet

Furthermore, the Commission announced it would create an expert group to gather further expertise on issues such as licensing practises, sound Intellectual Property valuation, Fair, Reasonable and Non Discriminatory (FRAND) licensing conditions and launch a pilot project on the evaluation of the essentiality of Standard Essential Patents (SEP). Further measures might be taken as needed.

See also fiches on MODERN EUROPEAN COPYRIGHT RULES and ASSESSMENT of PLATFORMS & TACKLING ILLEGAL CONTENT in Legislative Train 2.

References:

- EP Legislative Observatory, Procedure file on Towards a renewed consensus on the enforcement of intellectual property rights: an EU action plan, 2014/2151(INI)
- European Commission, Communication 'A balanced IP enforcement system responding to today's societal challenges', COM (2017) 707
- European Commission, An evaluation report and study on the Directive on the enforcement of IPR
- European Commission, Communication 'Setting out the EU approach to Standard Essential Patents', COM (2017) 712
- European Commission, Overview report on the functioning of the Memorandum of Understanding on the sale of counterfeit goods via the internet, SWD(2017) 430

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TRADE SECRETS

CONTENT

The aim of the proposed directive on Protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure was to establish a sufficient and comparable level of redress across the Internal Market in cases of unlawful acquisition, disclosure and use of trade secrets.

The Commission’s legislative proposal was published on 28 November 2013 and Committee’s referral was announced for the first time on 9 December 2013 and for the second time on 20 October 2014. A vote on the report in JURI Committee took place on 16 June 2015. The Council adopted a General approach on 26 May 2014. Negotiations between the co-legislators started in September 2015.

On 14 April 2016, the European Parliament plenary voted on the new EU directive setting common rules for protecting trade secrets and confidential information in the EU. The Council adopted the text in its first reading on 26 May 2016 and the final act has been

LEGISLATIVE TRAIN 10.2018 4B DEEPER AND FAIRER INTERNAL MARKET WITH A STRENGTHENED INDUSTRIAL BASE / SERVICES INCLUDING TRANSPORT / UP TO €388BN 56/139
The compromise text introduces an EU-wide definition of trade secrets (i.e. information which is secret, has commercial value because it is secret, and has been subject to reasonable steps to keep it secret), and requires Member States to offer trade secrets holders strong civil-law protection against unlawful acquisition, use or disclosure of their confidential business information. A range of tools, including measures to preserve the confidentiality of trade secrets in the course of legal proceedings, and corrective measures (including damages) to redress misappropriation and misuse of trade secrets must be implemented by Member States in their national law. Victims of trade-secrets misuse will therefore gain additional means to defend their rights in courts if their trade secrets are stolen or misused.

The European Parliament legislative resolution of 14 April 2016 amended the Commission proposal as follows:

- The new directive does not affect the exercise of the right to freedom of expression and information as guaranteed by the EU Charter of Fundamental Rights. The compromise text introduces safeguards to protect journalists and their sources, as well as whistle-blowers.
- Trade-secrets holders will not have the right to redress if their trade secrets are acquired, used or disclosed to exercise the right to freedom of expression and information as set out in the Charter, to reveal misconduct or other illegal activities in order to protect the general public interest (e.g. environmental protection), or for any other legitimate interest recognised by EU or national law.
- The text also clarifies that the new directive will not restrict employees’ mobility. In particular the new legislation on trade secrets does not protect against the use of the information which is part of the employees’ experience and skills, acquired honestly in the normal course of their employment.

The final act was published in Official Journal on 15 June 2016.

References:

- EP Legislative Observatory, *Procedure file on Protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure*, 2013/0402(COD)
- Directive (EU) 2016/943 of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure

Further reading:


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The Regulation on Rail transport statistics: collection of data on goods, passengers and accidents aims to modify the previous Regulation (EC) 91/2003 in order to update, simplify and optimise the existing legal framework for European statistics on rail transport and to align it with the new institutional context.

The European Commission legislative proposal was published on 30 August 2013. The Commission needs statistics on the transport of goods and passengers by rail in order to monitor and develop the Common transport policy. Detailed rail transport statistics for goods and passengers and information on intermodality are necessary in order to monitor the targets set in the 2011 Commission’s White Paper. Eurostat conducted a technical analysis of the existing data on rail statistics collected under EU legislation and of the dissemination policy, within its Working Group and Task Force on rail transport statistics.

In its report to the European Parliament (EP) and the Council on the experience acquired in the application of the Regulation (EC) 91/2003, the Commission indicated that long term developments will probably mean the suppression or simplification of the data already collected under the Regulation. The provisions of the Regulation concern data on the transport of passengers and goods, on accidents as well as transit data.

In its March 2014 first reading resolution adopted with a large majority, the EP took the view that data collection should be extended.
in relation to rail infrastructure. It proposed adding inter alia the following categories of data:

- the number of km of rail infrastructure equipped with the European Rail Traffic Management System (ERTMS),
- the number of cross-border rail infrastructure points used more frequently for passenger transport than every hour or every two hours,
- the number of cross-border rail points abandoned or dismantled for passenger and freight transport and
- the number of stations accessible for persons with reduced mobility or disabled.

The EP observed that data collection on accidents should remain with Eurostat and the European Union Agency for Railways. It called for close cooperation between them to ensure consistency and comparability of data. To contribute to a higher level of safety, Parliament also proposed to collect data on incidents. With regard to delegated powers to the European Commission, the EP considered that, when drawing up delegated acts, the Commission should consult the rail sector. Finally, within three years after the entry into force of the Regulation, the Commission should submit a report on its implementation, assessing the quality of statistics produced.

An informal trilogue meeting took place on 25 November 2014 and a compromise text agreed. On 19 December 2014 however, COREPER did not endorse the compromise text. The main issue at stake was the compulsory pilot studies to be conducted by Member States. After informal negotiation which took place between the subsequent 2015 Latvian and Luxembourg and then 2016 Dutch Presidencies, a new agreement was reached. This was accomplished thanks to the signature of two memoranda of understanding. One was between Eurostat and DG Move to identify the statistics needed for the programming and implementation of EU transport policies. The other was between Eurostat and the European Union Agency for Railways, regarding the transfer of data on rail safety and interoperability.

On 26 May 2016, the trilogue meeting reached a final compromise agreement. It was approved by EP Committee on transport and Tourism (TRAN) on 15 June 2016. On 19 July 2016, the Council adopted its position at first reading on this file. It insisted on an appropriate cooperation between the Commission and relevant entities to provide EU citizens with useful and accessible information on rail transport safety and technical compatibility (‘interoperability’). As far as delegated acts are concerned, the Commission will be able to adopt them in order to adapt the technical specifications or add technical definitions.

On 18 October 2016, the EP TRAN Committee adopted its recommendation for second reading, indicating its support to approve the Council position without amendment. In October 2016 plenary session, the EP approved the Council position and adopted the Regulation. The Regulation (EU) 2016/2032 was signed by the Council and the Parliament on 26 October 2016 and published in the Official Journal on 23 November 2016. It entered into force on the twentieth day following its publication date in the Official Journal.

References:

- EP Legislative Observatory, Procedure file of Regulation on Rail transport statistics: collection of data on goods, passengers and
The aim of the proposed Regulation is to amend Regulation (EC) No 1365/2006 on statistics of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures.

On 28 June 2013, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Commission for Regulation on rail transport statistics, as regards the collection of data on goods, passengers and accidents.

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Parliament and of the Council amending Regulation (EC) No 1365/2006 on statistics relating to trading of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures. It was proposed to empower the Commission to adopt delegated acts to adapt

• the threshold for statistical coverage of inland waterways transport,
• the definitions and adopt additional definitions,
• the data collection scope and the content of the Annexes.

It was also proposed to confer implementing powers on the Commission regarding the transmission of data to Eurostat and the methodology to ensure data quality. The EP adopted its report on 11 March 2014. It amended the Commission proposal in order to strengthen the statistical coverage. Therefore, data should be collected both for goods and passengers, respecting EU data quality criteria. To streamline the powers delegated to the Commission and safeguard Parliament’s prerogatives, the Members suggested that the powers delegated to the Commission should be limited to five years, with extensions possible.

The amended text also lets the Commission to adopt implementing acts to specify modalities, structure, periodicity and comparability elements for the quality. These acts must be adopted in accordance with the examination procedure. The EP also asked that the Regulation be reviewed every three years. However, the COREPER rejected the text agreed in December 2014, the main issue of disagreement being compulsory pilot studies to be conducted by Member States. After intense informal negotiations, a consensus was reached (the pilot studies will be conducted on a voluntary basis), which the COREPER endorsed on 27 April 2016.

On 24 May 2016, the EP TRAN Committee agreed on the compromise text, which was then adopted by the Parliament in plenary on 25 October 2016. The final act was signed the following day. The regulation (EU) 2016/1954 was published in the Official Journal on 17 November 2016 and entered into force 20 days later.

References:

• EP Legislative Observatory, Procedure file on statistics of goods transport by inland waterways: Commission delegated and implementing powers, 2013/0226(COD)


• European Commission, Proposal for a regulation amending Regulation (EC) No 1365/2006 on statistics of goods transport by inland waterways as regards conferring of delegated and implementing powers upon the Commission for the adoption of certain measures, COM(2013) 484

• Council, Political agreement, 9426/16

Further reading:

• European Parliament, EPRS, Statistics on goods transport by inland waterway, At a Glance, 21 October 2016
REQUIREMENTS FOR INLAND WATERWAYS VESSELS

CONTENT

Technical requirements for vessels operating on the EU's inland waterways were laid down by the Directive 2006/87/EC, while the technical requirements for vessels navigating on the Rhine were laid down by the Central Commission for Navigation on the Rhine (CCNR) in the Revised Convention for Rhine Navigation of 2004. However, it proved difficult to maintain equivalence between the certificates issued under the two legal regimes, which put navigation safety at risk.

The legislative proposal 2013/0302(COD) for a directive on Inland waterway vessels: technical requirements seeks to adopt a uniform set of technical standards for inland navigation vessels. The aim is to provide more legal certainty, ensure that technical adaptations to technical progress can be introduced within a reasonable time, ensure that high safety standards on all EU inland waterways are maintained and promote innovation in the sector. After the Commission published its proposal on 10 September 2013, the European Parliament adopted its position in single vote procedure on 15 April 2015.

The EP supported the common technical standards and their adaptation to technical and scientific progress, in line with standards
developed by international organisations, in particular the CCNR. The EP endorsed the planned creation of a committee for the elaboration of European standards, foreseen by an administrative agreement signed by the Commission services and the CCNR. This committee, known as CESNI (Comité européen pour les standards dans le domaine de la navigation intérieure), was created by the CCNR in June 2015. Composed of experts from the EU Member States and Switzerland, its task is to draw up uniform technical standards for inland waterway vessels. Under the new regime, these standards will not only be incorporated into EU legislation, but also become applicable on the river Rhine. The CESNI adopted its first technical standard for inland waterway vessels in November 2015 and that standard is referred to in the Directive.

However, the Parliament could not support the proposal that the directive contains a ‘dynamic reference’ to the standards developed by CESNI, meaning that the annexes (containing the technical and procedural provisions) would be adapted automatically, by-passing the Parliament as co-legislator and giving all decision-making power to the Member States.

Informal negotiations with the view to reach an early second reading agreement took place under the Luxembourg and Dutch Presidencies of the Council. Parliament’s and Council’s negotiating teams reached an agreement on the file on 17 March 2016. It was agreed that the CESNI standards would be adopted by delegated acts. In this way, the Parliament can scrutinise and even oppose measures adopted by the Commission. On 1 September 2016, the Committee on Transport and Tourism endorsed the recommendation prepared by the rapporteur Ivo Belet (EPP, Belgium) and the file was adopted at second reading in plenary on 14 September 2016 and presidents of both institutions signed the final act on the same day. The Directive (EU) 2016/1629 was published in the Official Journal on 16 September 2016, entered into force 20 days later. Member States have till 7 October 2018 to comply.

References:

- EP Legislative Observatory, Procedure file on inland waterway vessels: technical requirements, 2013/0302(COD)
- Council, Inland waterway vessels: Council adopts directive on uniform technical requirements, Press release, 16 June 2016
- European Parliament, Resolution of 26 October 2006 on Inland waterway transport: integrated European action programme Naiades, 2006/2085(INI)
- European Parliament, Resolution of 6 February 2014 on NAIADES II, an action programme to support inland waterway transport, 2013/3002(RSP)

Further reading:

The directive aims at enhancing the functioning of the internal market in order to achieve a high level of consumer protection through.
the approximation of Member States' legislative, regulatory and administrative rules on packages and other combinations of travel services.

The directive ensures that travellers are better informed about the services they are buying (e.g. the right to receive approximate departure and return times and information on the type of any possible extra costs) and grant them clearer remedies if something goes wrong. In addition, package travellers are given the right to cancel a package deal contract if its price rises prior to departure beyond a certain limit.

The Parliament (rapporteur Birgit Collin-Langen, EPP, DE) adopted its first reading position on the file on 12 March 2014 and second reading position on 27 October 2015. The Council adopted its position on 22 September 2015. The final act was signed by the Parliament and the Council on 25 November 2015. Linked travel arrangement (in the initial Commission proposal it was named 'assisted travel arrangement') is defined in the final act as a combination of 'at least two different types of travel services purchased for the purpose of the same trip or holiday, not constituting a package, resulting in the conclusion of separate contracts with the individual travel service providers'. Traders facilitating linked travel arrangements have to explain to travellers in a clear, comprehensible and prominent manner that only the relevant service providers are liable for performance of the services and that travellers will not benefit from any of the Union rights granted to package travellers, except the right to a refund of pre-payments and, where relevant, to repatriation in case the retailer itself or any of the service providers becomes insolvent.

Several of the amendments reinforcing travellers' rights were made by the Parliament. It was the Parliament which ensured in its first reading position on the Commission proposal for instance that before making the payment, travellers are made aware of whether they are choosing a package travel or a linked travel arrangement. The Parliament also specified the scope of the directive and pre-contractual information given to the traveller.

The Parliament called to give package travellers a right to cancel a package deal contract if its price rises prior to departure beyond 8% while in the Commission proposal this limit was set to 10%. The Parliament also added detailed rules on the alternative hotel, if the organiser is not able to put the package traveller in the hotel that was promised. Other changes concern, for example, organizers' obligations when, due to unavoidable and unforeseen events (such as natural disasters or terrorist attacks), it is impossible to ensure the traveller's timely return.

References:

- EP Legislative Observatory, Procedure file on package travel and linked travel arrangements, 2013/0246(COD)
In March 2013, the European Commission presented a package of proposals for amending the Trademark Regulation and the trademark Directive as well as for adjusting the fees payable to OHIM. The package is composed of a regulation and a directive. The aim of the regulation on the Community trade mark together with the directive on Trade marks: approximation of the laws of the Member States (recast) is to foster innovation and economic growth by making trade mark registration system all over the EU more accessible and efficient for businesses in terms of lower costs and complexity, increased speed, greater predictability and legal security.

On 15 December 2015, the European Parliament voted the amended legislation and the renaming of the Office for Harmonization in the Internal Market (OHIM) as the ‘European Union Intellectual Property Office’. A significant number of amendments introduced by the EP were approved:

- Regarding terminology, the EP wanted the name to be ‘European Union Intellectual Property Agency’ instead of ‘European Union Trade Marks and Designs Agency’ as proposed. The compromise reached by the EP and the Council was the re-naming of OHIM as the ‘European Union Intellectual Property Office’ (Office).
- Regarding substantive trademark rules, the EP called, inter alia, to ensure that trademark protection does not impair freedom of
expression (e.g. for parody) and to balance the rights of trademark owners with the interests of consumers with regard, in particular, to goods in transit through the EU territory. As sought by the EP, the new legislation indicates that fundamental rights and freedoms including artistic expression must be safeguarded and the use of a trade mark in accordance with honest industrial and commercial practices should be allowed. New rules on goods in transit have been agreed in order to fight more effectively against the trading of counterfeit products.

- Regarding procedural rules, the EP sought to make mandatory the rules on cooperation between national and EU trademark offices and to include the rules on registration fees directly in the Regulation. The Council accepted that the new cooperation framework between national intellectual property offices and the EU Office should be mandatory, but gave national offices the possibility to opt out in certain circumstances. The Office was also provided with the necessary legal basis to establish a Mediation Centre to help parties to resolve disputes independently of the trademarks offices' decision-making process.

- Finally, the Council and the EP agreed to significantly reduce registration fees for EU trade marks and to set the features of the fees structure in an annex to the Regulation rather than, as previously, by way of implementing acts of the Commission.

The new legislation simplifies, accelerates and harmonises trademark application procedures, increases legal certainty by clarifying some provisions, ensures better coordination between the EU trademark agency and national offices for promoting convergence of practices and common tools, puts legislation into line with the Lisbon Treaty and updates the governance rules of the EU trademark agency.

The final act was published in Official Journal on 24 December 2015.

References:

- EP Legislative Observatory, Procedure file of Regulation on European trade mark, 2013/0088(COD)
- EP Legislative Observatory, Procedure file of Directive on Trade marks: approximation of the laws of the Member States (recast), 2013/0089(COD)

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OPENING OF THE MARKET FOR DOMESTIC PASSENGER TRANSPORT SERVICES BY RAIL: AWARD OF PUBLIC SERVICE CONTRACTS

CONTENT

The aim of the proposed amendments to Regulation (EC) 1370/2007 on public passenger transport services by rail is to improve the quality of rail passenger transport services and their efficiency.

In 2001, 2004 and 2007, three legislative railway packages were adopted to open up national markets and make railways more competitive and interoperable at EU level. Despite the new EU legislation stemming from these packages, the modal share of rail in intra-EU transport has remained modest at 6%.

To remove the remaining legal, institutional and technical obstacles, the European Commission published its legislative proposal on 30 January 2013, in the framework of the Fourth Railway Package.

Regulation 1370/2007 sets out a framework for awarding public service contracts and compensating for public service obligations. Given that no common EU rules on the award of such contracts apply, some Member States introduced competitive tendering for...
these contracts, while others award them directly. This patchwork of regulatory systems in the EU makes it difficult for railway companies to exploit the full potential of operating in an Internal Market.

The impact assessment showed that a combination of proposed measures would have an economic, environmental and social impact and would generate a net present value of between €21 and €29 billion from 2019 to 2035.

The main elements of the proposal are as follows:

- A flexible and transparent procedure as to how competent authorities define public service obligations and the geographical scope of public service contracts. Competent authorities must: establish public transport plans defining the objectives and patterns of public passenger transport policy; justify the kind and extent of public service obligations they intend to impose on public transport operators and ensure appropriate consultation of stakeholders (e.g. passenger and employee organisations and transport operators).
- Compulsory provision by competent authorities of operational, technical and financial information about passenger transport covered by a public service contract to be put out to tender.
- Specific limits for the direct award of small volume contracts.
- Mandatory competitive award of rail contracts, where the general rule of competitive tendering will apply to rail.
- Access to rail rolling stock: Member States must ensure effective and non-discriminatory access to suitable rail rolling stock for operators wishing to provide public passenger services by rail.
- A 10-year transition period up to 2 December 2019 applied to competitive tendering procedures.

The European Parliament (EP) adopted its first reading position at its plenary session on 26 February 2014. The EP proposed giving Member States or competent authorities the choice between competitive tendering and direct award of public service contracts. To improve service quality and to focus on tangible improvements for the passengers, the direct award of public service contracts would be linked to specific quality requirements such as: evolution of passenger volumes, frequency and punctuality of services, cost-efficiency, customer satisfaction, quality of rolling stock. The EP proposed also that the volume of a public service contract for passenger transport, which will be awarded on the basis of competitive tendering, should be set to facilitate competition between small bidders, new entrants and the incumbent operators.

Moreover, the EP insisted that the public service operators that are selected by the authorities should grant their staff working conditions that comply with binding national, regional or local social standards and/or the rules for transfer of staff in the event of a change of operator. They would also have to comply with the relevant collective agreement and ensure decent employment and working conditions. Finally, the EP proposed that public service contracts not complying with the Regulation, directly awarded before 3 December 2022, should expire at the latest 10 years from the entry into force of the Regulation.

Reaching an agreement in the Council on this legislative proposal proved to be quite challenging. Under the Italian Presidency in the second half of 2014, many countries shared the concern that “cherry picking” could lead to the neglect of less profitable rail routes and wished to conserve direct award of contracts. Under the subsequent Latvian Presidency, in parallel with competitive tendering, new
exceptions were proposed in particular for Member States whose national rail passenger traffic was less than 1% of all EU rail passenger volume; they were subsequently abandoned. The October 2015 Transport Council which adopted unanimously a general approach reached a compromise and established competitive tendering of public service contracts as a rule. Direct award would still be possible to prevent smaller markets being adversely affected and to ensure the continuity of public rail services. The Council’s general approach justified direct award on the basis of a network’s structure and geographic characteristics.

After a provisional agreement reached between the Council and the EP on 19 April 2016, and a debate in Council in September, Council’s position was published in October 2016. All previous provisions concerning the possibility to directly award public service contracts were reiterated; the transitional period to award them was limited to 7 years after the new rules’ publication. Direct award would also be possible below fixed value or passenger thresholds. The EP Committee on Transport and Tourism adopted the proposal on 5 December. This legislative proposal was finally approved by the EP at second reading in plenary, on 14 December 2016.


References:

- EP Legislative Observatory, Procedure file of Regulation on Opening of the market for domestic passenger transport services by rail: award of public service contracts, 2013/0028(COD)

Further reading:


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As of 20 October 2018
OPENING OF THE MARKET FOR DOMESTIC PASSENGER TRANSPORT SERVICES BY RAIL AND GOVERNANCE OF THE RAILWAY INFRASTRUCTURE

CONTENT

The proposal aims to amend Directive 2012/34/EU establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure. Its objective is to intensify the competition on domestic rail markets and strengthen the governance of the infrastructure managers.

In 2001, 2004 and 2007, three legislative ‘railway packages’ were adopted to open up national markets and make railways more competitive and interoperable at EU level. Despite the new EU legislation stemming from these rail packages, the modal share of rail in intra-EU transport has remained modest (6%).

To remove the remaining institutional and legal obstacles the European Commission published its legislative proposal on 30 January 2013, in the framework of the Fourth Railway Package.

A number of problems need to be addressed:

- the difficulty in accessing national passenger rail services: in many Member States, this market is closed to competition;
- the need to enhance the governance of rail infrastructure managers as the latter do not always react to the needs of the market and its users;
- a number of market entry barriers result from situations where infrastructure management and transport operations are part of...
the same integrated structure;

- lastly, integrated structures make it much more difficult to enforce the separation of accounts between infrastructure management and transport operations.

This proposal encompasses provisions with the following aims:

1. To open up the market for domestic passenger rail services to increase competition. The Commission proposed to open, from December 2019, all national passenger transport routes to new entrants and service providers.

2. To enhance the governance of the infrastructure manager to ensure equal access to the infrastructure. To this end, the proposal seeks:

- to remove conflicts of interest of the infrastructure manager on market access and to eliminate the risk of cross-subsidisation existing in integrated structures;
- to strengthen coordination between infrastructure managers and rail operators to better respond to market needs;
- to create a forum for the cooperation of infrastructure managers across borders;
- to establish information and integrated ticketing schemes common to all railway undertakings operating domestic passenger services, without distorting competition.

The proposal allows vertically integrated undertakings, including those with a holding structure, to maintain ownership of the infrastructure manager on condition that there are strong and efficient safeguards protecting the infrastructure manager’s independence.

Moreover, Member States could limit access rights of railway operators, which are part of vertically integrated undertakings, where the Commission cannot confirm that safeguards to protect the independence of the infrastructure manager have been effectively implemented.

In its February 2014 resolution, the European Parliament (EP) underlined that the infrastructure manager should have effective decision-making powers and be independent from other entities within a vertically integrated undertaking, with respect to essential tasks such as train track allocation and infrastructure charges. The EP insisted also that Member States should be given enough flexibility to organise their rail network allowing a mix of open-access services and services performed under public service contracts. This mix would ensure a high quality of services accessible to all passengers. The EP clarified that high-speed passenger services should not be limited in their access rights to the railway infrastructure and should be referred to as open-access services. This last point was particularly welcomed by the rapporteur, David-Maria Sassoli (S&D, IT).

Moreover, the Parliament insisted on the strengthening of social provisions. It observed that the single European railway area should be pursued on the basis of a social dialogue. The EP took the view that the opening of the market should not influence negatively rail workers’ rights and social conditions. Lastly, the EP also advocated for the introduction by December 2019 of an information and
ticketing system common to infrastructure managers, all rail companies and stakeholders, to facilitate travel planning and purchase of tickets.

In the October 2014 Transport Council, disagreement between Member States on governance became apparent. Countries such as Austria, Germany, Luxembourg or Slovenia stated that they wished to keep an integrated holding system. The majority of Member States believed that the governance model should be adapted to national realities and not necessarily be one decided by the EU. The Latvian Presidency undertook efforts in the first half of 2015 to present a compromise, defining the infrastructure manager’s independence in relation to its functions rather than to its structure. In its general approach of October 2015, the Council allowed for vertically integrated structures but introduced safeguards against financial transfers within the infrastructure manager and the operator in a holding company. The provisional agreement reached between the Council and the EP on 19 April 2016 confirmed the previous positions both on liberalisation of the domestic market and on governance issues.

After the publication of Council’s position in October 2016, the EP Committee on Transport and Tourism backed the proposal. This legislative file was approved by the EP at second reading in plenary, on 14 December 2016.

Directive (EU) 2016/2370 was signed by the European Parliament and the Council on 14 December 2016 and entered into force the day following its publication in the Official Journal, on 23 December 2016. Nevertheless, some provisions (points 6 to 8 and 11 of Article 1) shall apply from 1 January 2019.

References:

• European Parliament, Agreement on opening up of the EU passenger railway market, Press release, 20 April 2016
• Council, Communication from the Commission to the European Parliament pursuant to Article 294(6) of the TFUE concerning the position of the Council on the adoption of a Directive amending Directive 2012/34/EU establishing a single European railway area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure, First reading position adopted by the Council on 17 October 2016, 13727/16

Further reading:

The aim of the proposal 2013/0013(COD) is to repeal Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings.

The European Commission published its legislative proposal on 30 January 2013 in the framework of the Fourth Railway Package.

Regulation (EEC) No 1192/69 allows Member States to compensate 40 enumerated railway undertakings for the payment of obligations, which undertakings of other transport modes do not have to support, such as special family allowances and pensions. When the rules for normalisation are correctly applied, such State support is considered compatible with the internal market and
Member States are exempted from State aid notification obligations.

This regulation was adopted before the rail market was liberalised and when rail in Europe was developing primarily within national borders, with integrated companies both operating rail services and managing rail infrastructure. Today, this regulation is inconsistent and incompatible with legislative measures currently in force, as well as with the fundamental principles laid down in Directive 2012/34/EU establishing a single European railway area. In the context of a liberalised market where railway undertakings compete directly with the traditional monopolies listed in the regulation, the Commission considers that it is not appropriate to discriminate between these two groups of companies.

The Commission did not undertake an impact assessment. However, it requested information from Member States about the application of the Regulation in May 2010 and in June 2011. Responses revealed that, between 2007 and 2010, a majority of Member States had not received applications from railway undertakings and had not made payments of compensation under the Regulation. A majority of Member States indicated they saw no ongoing need for the Regulation and some explicitly expressed their support for its repeal or their opinion that the Regulation is obsolete. On the basis of the data provided by Member States, it was concluded that the impact of a repeal of the Regulation would be very minimal.

The European Parliament (EP) adopted its first reading position at its plenary session on February 2014, with an overwhelming majority (575 votes cast in favour, to 84 with 14 abstentions). Due to the inconsistency of the Regulation with the current legal framework, the EP had a fairly homogeneous standpoint on this proposal.

The Council started debating the proposal in December 2014 and reached a provisional agreement with the EP on this file on 19 April 2016, in the context of the Fourth Railway Package negotiations. The text provisionally agreed confirmed that it is appropriate to repeal the Regulation and that this will contribute to regulatory simplification. Council position was published on 18 October 2016.

An exception is provided for the provisions of the Regulation applicable to the normalisation of the accounts concerning the costs of level crossing facilities, which will apply until 1 January 2018.

This legislative proposal was approved by the EP at its plenary on 14 December 2016. Regulation (EU) 2016/2337 was signed by the European Parliament and the Council on 14 December 2016 and entered into force on the twentieth day following that of its publication in the Official Journal, on 23 December 2016.

References:

• Regulation (EEC) No 1192/69 of the Council of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings

Further reading:


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As of 20 October 2018

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INTEROPERAIBILITY OF THE RAIL SYSTEM WITHIN THE EUROPEAN UNION (RECAST)

CONTENT

The aim of the Directive on the interoperability of the rail system within the European Union (recast) is to improve the efficiency and competitiveness of the Single European Railway Area in the field of technical compatibility, defined as interoperability.

In 2001, 2004 and 2007, three legislative ‘railway packages’ were adopted to open up the national markets and make railways more competitive and interoperable at the EU level, while maintaining a high level of safety. However, the modal share of rail in intra-EU
transport has remained modest. This prompted the Commission to put forward the Fourth Railway Package in order to enhance the quality and efficiency of rail services by removing the remaining obstacles, in particular of technical and administrative nature.

The European Commission published its legislative proposal on 30 January 2013 in the framework of the Fourth Railway Package.

This Directive aims to:

- establish a common approach to interoperability and safety rules to increase economies of scale for railway undertakings operating in the EU;
- decrease administrative costs;
- accelerate administrative procedures and avoid disguised discrimination;
- expand the European Union Agency for Railways’ powers.

The Commission’s proposal to recast Directive 2008/57/EC may be summarised as follows:

- further provisions were to be specified in the technical specifications for interoperability (TSIs) to cover existing subsystems and to enable railway undertakings to check compatibility between vehicles and routes;
- the use of Agency opinions pending the amendment of TSIs as a result of deficiencies discovered, was clarified and the cases of possible non-application of TSIs have been reduced;
- the introduction and role of national rules, and the procedures for their withdrawal and their publication were clarified, as were the circumstances which trigger a new EC declaration of verification;
- the placing on the market of mobile subsystems could be done by both railway undertakings and manufacturers;
- a new provision introduced the notion of vehicle authorisation for placing on the market. This authorisation is issued by the Agency and contains all information needed later by the railway undertaking to place a vehicle in commercial service;
- the role of railway undertakings and infrastructure managers in checking the technical compatibility of the vehicle with the route and the safe integration of the vehicle in the system in which it is intended to operate was clarified;
- two new articles concerning conformity assessment bodies replaced and complemented some existing provisions to include the provisions of the new legislative framework for the marketing of products as defined in Decision 768/2008/EC;
- articles on European Vehicle Number (EVN) and registers were updated;
- as a consequence of the Lisbon Treaty, a certain number of the annexes of Directive 2008/57/EC in the form of implementing acts were to be adopted by the Commission.

The European Parliament (EP) adopted its first reading position on 26 February 2014 and subsequently its proposal on second reading vote on 28 April 2016. This legislative proposal did not raise major problems in the European Parliament and its first resolution was adopted by a large majority. Among other things, the Parliament underlined the need to improve the interlinking of the national rail networks as well as access thereto, including for passengers with disabilities. It underlined the need to enable EU citizens, economic operators, regional and local authorities to benefit fully from the establishment of an area without internal frontiers and to attain the objective of territorial cohesion.
Moreover, the Parliament observed that the EU should strive to define an optimal level of technical harmonisation in order to facilitate, improve and develop rail transport services within the Union and with third countries. This would also contribute to the progressive creation of the internal market in equipment and services for the construction, renewal, upgrading and operation of the EU rail system.

The Council debates started in March 2013; after adopting a general approach in June 2013, it reached a political agreement on this file in June 2014. It published its position on 15 December 2015. As regards authorisation procedures, in its position the Council opted for a dual system: the Agency will act as a “one-stop shop" for issuing vehicle authorisations for placing on the market for rail cross-border operations. Nevertheless, national safety authorities (NSAs) will retain an important role in carrying out the necessary assessment linked to the issuance of these authorisations. For domestic operations, the companies will have a choice to submit their applications to the Agency or to their respective NSA.

The Directive 2016/797 was officially signed by the Council and the EP on 11 May 2016 and entered into force the twentieth day after the publication in the Official Journal, which occurred on the 26 May 2016. The rules on authorisation will be operational within three years after their entry into force, with a possible extension of one year prior to a Member State’s notification to the Commission and to the Agency.

References:

- EP Legislative Observatory, Procedure file on Interoperability of the rail system within the EU. Recast. IV Railway package, 2013/0015(COD)
- Council, Council reaches political agreement on railway interoperability and safety and the European Railway Agency, Press release, June 2014

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As of 20 October 2018
RAILWAY SAFETY (RECAST)

> 4TH RAILWAY PACKAGE

CONTENT


In 2001, 2004 and 2007, three legislative ‘railway packages’ were adopted to open up the national markets and make railways more competitive and interoperable at the EU level, while maintaining a high level of safety. However, the modal share of rail in intra-EU transport has remained modest. This prompted the Commission to put forward the Fourth Railway Package in order to enhance the quality and efficiency of rail services by removing the remaining obstacles.

This proposal for a Directive aims to:

- establish a common approach to safety and interoperability rules to increase economies of scale for railway undertakings operating in the EU;
- decrease administrative costs;
- accelerate administrative procedures and avoid disguised discrimination;
In order to establish a single market for rail transport services, it is necessary to set up and implement a common regulatory framework for railway safety. Member States have until now developed their safety rules and standards mainly on national lines, leading to technical obstacles and additional costs for cross-border rail operations.

The Commission is proposing to amend the current regulatory framework with a view to:

- facilitating the creation and implementation of a single EU safety certificate, in accordance with the recommendation of the European Union Agency for Railways. The proposed changes are designed to take into account the new role of the national safety agencies (NSAs) in the transition process towards a single safety certificate and the reallocation of responsibilities between them and the Agency;
- adapting the text to take into account developments in the rail market: the current trend of outsourcing activities or services is leading to the emergence of new actors subject to increasing economic and financial pressure, while internal control is decreasing. This may have consequences for safety, unless a new way of risk control monitoring is established, through contractual or other arrangements.

Other proposed changes include:

- adapting the scope and definitions to improve consistency with the interoperability Directive;
- adapting the provision regarding national rules to take into account the evolution of the legal framework (adoption of technical specifications for interoperability (TSIs)).

This proposal was supported by the EP, which adopted in February 2014 its resolution with a large majority. On the issuance of safety certificates, the proposed amendments underlined the Agency’s exclusive competence both for rail companies and infrastructure managers but left the possibility to choose between the Agency and NSAs in case of isolated networks. Similarly to what the Council proposed for authorisations, it opted for a dual system: the Agency will act as a “one-stop shop” for issuing safety certificates for rail cross-border operations and a choice will be given between the Agency and NSAs for national traffic.

In addition to this, the EP attained other achievements during its negotiations with the Council. The EP insisted on the establishment of a ‘just culture’, ensuring a consistent reporting of accidents, incidents and potential safety risks. The Agency would set up a centralised database containing the information in relation to accidents and incidents. This would enable rail industry to learn lessons and improve work practices. Moreover, with the introduction of a new safety management system, proper qualification and training of staff would be provided, including arrangements on the physical and psychological fitness of workers.

The EP also insisted on the obligation for Member States to monitor the compliance of train drivers with the rules on working, driving and rest periods. The Parliament called for an improvement of the information policy towards relatives of victims and an improved
coordination of emergency services.


The Directive 2016/798 was officially signed by the Council and the EP on 11 May 2016. Its provision will apply 3 years after the entry into force of the Directive, with a possible extension of one year by Member States.

References:

- EP Legislative Observatory, Procedure file on Railway safety, Recast. IV Railway package, 2013/0016(COD)
- Council, Council reaches political agreement on railway interoperability and safety and the European Railway Agency, Press release, June 2014

Further reading:


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As of 20 October 2018
The aim of the Regulation (EU) 2016/796 on the European Union Agency for Railways is to replace the original founding Regulation (EC) 881/2004 of the European Railway Agency, and add new important tasks to the Agency making it a truly European Railway Authority in the field of interoperability and safety.

The European Commission published its legislative proposal on 30 January 2013, in the framework of the Fourth Railway Package.

In 2001, 2004 and 2007, three legislative ‘railway packages’ were adopted to open up the national markets and make railways more competitive and interoperable at the EU level, while maintaining high level of safety. However, the modal share of rail in intra-EU transport has remained modest. This prompted the Commission to put forward the Fourth Railway Package in order to enhance the quality and efficiency of rail services by removing the remaining obstacles.

This Regulation aims to:

- accelerate administrative procedures and avoid disguised discrimination;
- establish a common approach to safety and interoperability rules to increase economies of scale for railway undertakings operating in the EU;
- decrease administrative costs;
- expand the European Union Agency for Railways’ powers.

The Agency should in particular:

- play the role of European authority responsible for issuing authorisations for placing on the market for railway vehicles and for types of vehicles, safety certificates for railway undertakings and authorisations for placing in service of trackside control-command and signalling sub-systems;
- monitor national railway rules and the performance of national authorities acting in the railway interoperability and safety fields;
- provide independent and objective technical support, predominantly to the Commission;
- have a strengthened role in the field of telematics applications to ensure their consistent development and swift deployment;
- be given a more important role to ensure the consistent development of the European Rail Traffic Management System (ERTMS).
The proposal introduces also an appeal mechanism so that decisions of the Agency’s Executive Director can be subject to appeal to a specialised Board of Appeal, whose decisions are, in turn, open to action before the Court of Justice.

Lastly, in order to perform its tasks properly, the Agency has legal personality and an autonomous budget funded mainly through a contribution by the Union and through fees and charges paid by applicants.

This proposal was adopted by the European Parliament (EP) by a large majority in February 2014. In its first reading resolution, the EP strived to clarify the Agency’s objectives and tasks and to ensure that it can guarantee a high level of rail safety. It insisted that the Agency be given a more prominent role to ensure consistent development of the ERTMS and be able to monitor National Safety Authorities (NSAs) also organising audits and inspections. It underlined at the same time the necessary cooperation between the Agency and national authorities, in particular giving them the maximum possible assistance in case of an investigation for which the Agency would have a responsibility. The EP also took the view that the proposed Regulation should not only apply to the certification of train drivers foreseen in Directive 2007/59/EC but also to the certification of all on-board railway personnel dealing with safety critical tasks.

In its discharge decision granted by the European Parliament to the Agency in April 2016, noting the new responsibilities of the Agency in the field of safety and interoperability, the Parliament underlined the need for adequate financial, material and human resources. In order to save financial resources, it also called for a single location of the Agency, which while based in Valenciennes has conference facilities in Lille.

In its December 2015 position the Council opted for a dual system of authorisations and certifications: the Agency will act as a ‘one-stop shop’ for issuing vehicle authorisations and safety certificates for rail cross-border operations and a choice will be given between the Agency and NSAs for national traffic.

An informal agreement between the EP, the Council and the Commission was reached in June 2015, which was subsequently adopted by the EP on 28 April 2016. The Regulation 2016/796 was officially signed by the Council and the EP on 11 May 2016. It entered into force on the twentieth day after official publication.

References:

- Council, Council reaches political agreement on railway interoperability and safety and the European Railway Agency, Press release, June 2014
The aim of the proposed regulation is to establish market access to port services and financial transparency of ports. More than 90% of all freight and passengers passing through EU ports transits through the 329 seaports within the trans-European...
transport network (TEN-T).

The Parliament already rejected two previous Commission attempts to modernise port services (in 2001 and 2004), seen as controversial, mainly due to their social and labour market aspects.

The proposed regulation targets maritime TEN-T ports. It introduces rules to ensure the financial transparency of eight port services, and open market access to six of them. Cargo handling and passenger services, which many ports secure through public concession contracts, are exempt from the market access provisions, but regulated by new rules on concessions instead. The port managing body can limit the number of providers of a service, and impose minimum requirements on them.

The Commission published the legislative proposal on 23 May 2013. In May 2014, the EP TRAN Committee debated the (first) draft report. However, due to the lack of time before the 2014 European elections and a number of essential policy issues concerning ports remaining unresolved (the Directive on concessions and the modernisation of State aid), the committee never voted on this draft report.

In June 2014, the Commission proposal was debated in Council. A majority of Member States opposed the proposed right of the Commission to harmonise port infrastructure charges through delegated acts. In October 2014, Council adopted a general approach.

In May 2015, the TRAN Committee rapporteur submitted another draft report, which was adopted on 25 January 2016. MEPs adopted the amended draft regulation in plenary on 8 March 2016 and approved the mandate for the EP’s representatives to start negotiations with the Council.

In the current procedure, the EP insisted that the regulation shall not impose a specific port management model to the managing bodies of ports. Provided that rules relating to market access and financial transparency are respected, existing port management models established at national level in the Member States can be maintained.

The EP also specified minimum requirements for port services and extended the list of reasons limiting the number providers of port services, stressing that any limitation of providers shall follow a non-discriminatory and transparent selection procedure.

In the amended version, port authorities can set port infrastructure charges, but, on demand, will have to provide information on the use of public funds to the national and EU monitoring authorities. Moreover, ports receiving public funds for providing port services have to keep accounts of this funding, separately from their other activities. In contrast to what the Commission proposed, in the compromise text agreed by the co-legislators only four services (bunkering, waste collection, mooring and towage) are open to market access, while passenger services, cargo-handling and pilotage are exempted. Dredging is only mentioned with respect to financial transparency.

The EP also strengthened the provisions on workers’ rights, in particular in cases of a transfer of undertakings or businesses, and by obliging the employers to ensure the necessary training for their employees.

Trilogue negotiations reached a provisional agreement in June 2016 and remaining technical issues were settled on 26 September 2016. The final text was approved by the TRAN Committee on 11 October 2016. The EP voted on the compromise text on 14 December 2016 and the Council of Ministers adopted the legislative act by qualified majority on 23 January 2017, concluding the procedure at first reading. After its signature by the Presidents of both institutions on 15 February 2017, the regulation was published in the EU’s Official Journal on 3 March, and entered into force 20 days later. The new rules will apply in all EU TEN-T ports from 24 March 2019.

References:
• EP legislative Observatory, *Procedure file on Market access to port services and financial transparency of ports*, 2013/0157(COD)

**Further reading:**

• European Parliament, EPRS, *The liberalisation of EU port services*, Briefing, EU legislation in progress, March 2017

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As of 20 October 2018

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**EUROPEAN STATISTICS: PROFESSIONAL INDEPENDENCE OF NATIONAL STATISTICS AUTHORITIES**
The aim of the regulation on European statistics: professional independence of national statistical authorities is to strengthen governance in the European Statistical System in order to safeguard its high credibility and to respond adequately to data needs resulting from the enhanced economic-policy coordination in the European Union.

Economic developments have demonstrated the need to further strengthen the credibility of statistics. Reliability of statistical data in terms of technical quality-assessment criteria is a pre-requisite in order to ensure the trust of users. But equally important is the credibility of the institutions producing statistics. In this context, the professional independence of statistical authorities must receive particular attention and be guaranteed by law.

The Commission recognised this in its Communication ‘Towards robust quality management for European Statistics’ where it indicated the need to strengthen the governance of the European Statistical System (ESS) by securing unconditional application of the principle of professional independence of National Statistical Institutes (NSIs), by clarifying their coordinating role in the national statistical systems and by enhancing the use of administrative data for statistical purposes. Furthermore, it was proposed that ‘Commitments on Confidence in Statistics’ (CoC) be established in order to make national governments aware of their role in, and co-responsibility for, ensuring the credibility of official statistics by respecting the independence of NSIs. According to the Communication, all these measures should be introduced by an amendment of Regulation (EC) No 223/2009. Moreover, the European Statistics Code of Practice should be revised accordingly.

The proposal - published by the Commission on 17 April 2012 - called for a revision of the current basic legal framework for European statistics, by adapting it to meet the policy needs and challenges created for European statistics by recent developments in the global economy. It covered a number of subjects including the role and professional independence of national statistical authorities; commitments on confidence in statistics; administrative data and programming periods, and EUROSTAT, the Statistical Office of the European Commission.

The European Parliament (EP) adopted its first reading position on 21 November 2013 with 517 votes. The amendments adopted in plenary were the result of a compromise between Parliament and Council. They amended the Commission proposal on European statistics on the following points:

- Independence of statistical authorities from possible political pressure at national and Union level. Recruitment, transfer and dismissal of heads of national statistics institutes (NSIs) should be done via a public procedure, which is transparent, based on professional criteria, free of political pressure and takes account of equal opportunity and gender balance. The independence of Eurostat, the statistical office of the European Commission, must be guarantee with parliamentary scrutiny and control.
- Eurostat shall be headed (for a maximum term of seven years) by a Director-General, with responsibility for deciding on processes, methods, standards, procedure and timing of publication of official statistics.
- It was recommended to strengthen the coordination and collaboration between NSIs and Eurostat.
European statistics should be easy to compare, to access and should be updated regularly.

It should ensure public confidence in the quality of European statistics, by applying a European Statistics Code of practice.

The text adopted by the Parliament in the second reading on 28 April 2015 approved the Council position.

The final act was published in the Official Journal on 19 May 2015.

References:

- EP Legislative Observatory, Procedure file on European statistics: professional independence of national statistical authorities, 2012/0084(COD)

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Maximum authorised dimensions and weights for certain road vehicles

Content
Reducing greenhouse gas emissions and the consumption of petroleum products in the field of transport has become crucial, notably for road transport, which accounts for 82% of the energy consumption of the transport sector. In the light of the evolving market and technologies available, the question raised by this proposal was to assess whether the choices made when the Directive 96/53/EC laying down for certain road vehicles the maximum authorized dimensions and weights was adopted in 1996, were still relevant.

The 2011 White Paper on Transport setting a goal of reducing greenhouse gas emissions by 60% by 2050, announced the revision of the 1996 Directive, with the aim to allow more energy-efficient, aerodynamic vehicles to be put on the market.

In its resolution 2011/2095 on a Roadmap for moving to a competitive low carbon economy in 2050 the European Parliament (EP) called for improved fuel efficiency of heavy goods vehicles and for minimum requirements to be set in each Member State to establish recharging/refuelling infrastructure in order to promote the use of electric and ultra-low carbon vehicles. The Commission's legislative proposal laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic, was published on 15 April 2013.

Specifically, the Commission’s proposal:

- granted derogations from the maximum dimensions of vehicles for the addition of aerodynamic devices to the rear of vehicles or to redefine the geometry of the cabs for tractors, improving drivers’ field of vision, as well as their safety and comfort;
- authorised a weight increase of one tonne for vehicles with an electric or hybrid propulsion, to take account of the weight of batteries or the dual motorisation, without prejudice to the load capacity of the vehicle. Furthermore, the maximum weight of buses would be increased by a tonne to take account of various developments such as the increase in the average weight of passengers and their baggage, the new equipment imposed by the safety regulations;
- aimed to facilitate the development of intermodal transport by allowing a derogation of 15 cm in the length of trucks carrying 45foot containers, which are increasingly used in intercontinental and European transport;
- added new provisions to enable the inspection authorities to better detect infringements and harmonise the applicable administrative penalties concerned. The Commission would publish guidelines on inspection procedures and would also define the technical standards for on-board weighing devices that can communicate with the inspection authorities.

In order to accelerate the introduction of vehicles that are more aerodynamic and have hybrid motorisation, the Commission would use the budgets at its disposal, in particular those allocated to trans-European networks and the EU programmes for research, development and innovation, to help industrial research, and the equipment of vehicle fleets.

In its first reading resolution adopted in April 2014, the EP, with the aim to improve the aerodynamic performance of vehicles, described precisely the devices that vehicles could be equipped with and the criteria that these devices should meet. The EP underlined that the authorised additional length for vehicles must allow the construction of cabs which could improve the aerodynamic as well as road safety for vulnerable road users. It also proposed that Member States ensure that the information concerning the number and severity of infringements of the legal framework committed by an individual undertaking was introduced into the risk rating system established under Directive 2006/22/EC.
In its position of December 2014, the Council significantly amended the original proposal. On cross-border traffic on longer vehicles, it took the view that the original Directive provided an adequate balance between the right of a Member State to determine solutions appropriate to the local circumstances and the need to avoid distortions to the internal market. The EP’s amendments concerning the approach to low-carbon technology were taken on board by the Council. Council also included a definition of intermodal transport operation but didn’t follow the EP’s proposal to keep the definition of combined transport throughout the text. Finally, the Council took on board in its spirit an EP amendment aimed at ensuring that the possibility given to exceed the maximum lengths for vehicles would not lead to an increase in their load capacity.

In its second reading text adopted in March 2015, the EP specified the operational conditions that must be fulfilled by the aerodynamics devices of the cabs of motor vehicles. The rapporteur, Jörg Leichtfried (S&D, Austria) expressed his appreciation for the approved text. More aerodynamic lorry cabs would increase the driver’s field of vision making it easier to see vulnerable road users. Moreover, an additional weight allowance up to one tonne for alternative engines would encourage the take-up of greener technologies. The additional length allowance (15 cm) for the transport of 45-foot standard containers would ease deliveries, facilitating intermodal transport operations. Finally, better on-board information would be made available for the driver on possible overload.

The Directive (EU) 2015/719 was signed by the EP and the Council on 29 April 2015 and published in the Official Journal on 6 May 2015. According to the final act adopted, Member States should, by 27 May 2021, take specific measures to identify vehicles or vehicle combinations in circulation that are likely to have exceeded the relevant weight limits and that therefore should be checked.

References:

- EP Legislative Observatory, Procedure file on Road transport: maximum authorised dimensions and weights for certain road vehicles, 2013/0105(COD)
- Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorized dimensions in national and international traffic and the maximum authorized weights in international traffic
- European Commission, White Paper-Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system, COM(2011) 144

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As of 20 October 2018
CONTENT

The European Parliament (EP) called (Resolution 2012/2056 (INI) on e-Call: new 112 service for citizens) for a proposal within the framework of Directive 2007/46/EC to ensure the mandatory deployment of a public, 112-based e-Call system by 2015 in all new, type-approved cars and in all Member States. This proposal also aimed to draw up any other regulatory measure necessary to avoid additional delays that could result in preventable fatalities. It further called for new legislation requiring Member States to upgrade their emergency response services infrastructures and to provide suitable training to operators, so as to be able to handle e-Calls by 2015. The EP urged the Commission to adopt the common specifications for Public Safety Answering Points (PSAPs) within the framework of the Intelligent Transport System (ITS) Directive by the end of 2012, and to propose a Directive on the implementation of e-Call.

The proposal for a regulation concerning the type-approval requirements for the deployment of the e-Call in-vehicle system and amending Directive 2007/46/EC, was published by the Commission in June 2013.

The proposal requires all new cars to be equipped with eCall technology from April 2018. In the event of a serious accident, eCall automatically dials 112 – Europe's single emergency number. It communicates the vehicle's exact location to emergency services, the time of incident and the direction of travel (most important on motorways), even if the driver is unconscious or unable to make a phone call. An eCall can also be triggered manually by pushing a button in the car, for example by a witness of a serious accident. eCall will transmit the data that is absolutely necessary in case of accident. Information is not stored any longer than necessary. The Commission estimates that, once the system is fully implemented, eCall could save hundreds of lives every year and help injured
people quicker.

In its February 2014 resolution adopted with a large majority, the EP observed that the deployment of an eCall service throughout the Union had been one of the EU’s priorities since 2003. It added that it was still necessary to improve the operation of the 112 system throughout the EU to be able to provide assistance swiftly and effectively.

It also highlighted that the 112-based eCall is a public service of general interest and should therefore be free of charge to all consumers. The EP took the view that each vehicle owner should have the right to use another emergency call system providing a similar service, but added that manufacturers should ensure that only one system would be active at a time. It added that manufacturers would also have to ensure that eCall users are provided with clear and comprehensive information about the existence of this free public service. Users should also be aware that tracking data of the vehicle would only be used and stored on the device for as long as strictly necessary for the purpose.

In its March 2015 position, the Council added a provision to clarify which categories of vehicles were exempted and provided for compulsory compatibility of eCall with the Galileo and Egnos navigation systems. Like the EP, the Council requested the Commission to submit an evaluation report by 2021 on the achievements of eCall as well as to investigate possible extension of the Regulation’s provisions to other categories of vehicles.

In April 2015, the Regulation was signed by the EP and the Council and was subsequently published in the Official Journal on 19 May 2015 and entered into force on the twentieth day following that date.

References:

- EP Legislative Observatory, Procedure file on eCall: new 112 service for citizens, 2012/2056(INI)
- EP Legislative Observatory, Procedure file on type-approval requirements for the deployment of the eCall in-vehicle system based on the 112 service, 2013/0165(COD)
- European Commission, Proposal for a Regulation concerning type-approval requirements for the deployment of the eCall in-vehicle system and amending Directive 2007/46/EC, COM(2013) 316
- European Commission, Mobility and Transport, Intelligent Transport Systems, website
- European Commission, Growth, Galileo Programme, website
- European Commission, Growth, European Geostationary Navigation Overlay Service, website

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CONTENT

Potential gains after full phasing-in of initiatives to remove remaining barriers: €50bn

Public procurement is an important economic factor. In Europe, spending by public authorities for supplies, works and services amount to around 14% of GDP.

A Green Paper was published by the Commission in 2011, drawing attention to the need to modernise legislation and to reform public procurement rules in order to help attaining the objectives of the EU’s 2020 strategy. An updating and simplification of legislation was thought of, with the aim of making the awards of contracts more flexible, and increasing the support provided by public procurement to other EU policies. The Green Book also announced a public consultation.

Two directives (2004/17/EC and 2004/18/EC) needed to be replaced. The first one concentrated on the fields of water, energy, transport and postal services, whilst the second was of a horizontal nature. Hence, in 2011 the Commission made two proposals (COM(2011) 896 final and COM(2011) 895).

Extensive debates took place in the European Parliament, not only in the Committee on Internal Market and Consumer Protection, but also in seven other committees. Parliament placed emphasis on a number of fields. These included the necessity to comply with...
environmental, social and labour market provisions. Members also looked for the best equilibrium between the notion of 'lowest cost' and the most economically advantageous tender, which should include economic, environmental and social characteristics. Special attention was given to SMEs. A certain flexibility of the rules was sought, whilst a fragmentation in interpretation and application of the rules had to be avoided. In the sectors of water, energy, transport and postal services it was requested not to interfere with the freedom of public authorities to decide how public services were to be carried out. Transparency, especially to help fighting corruption, and a high level of data protection were demanded.

A series of trilogues between the Council, the Commission and Parliament were held and compromises were reached. In early 2014 these were endorsed both by Parliament and Council, thus concluding the legislative process. The final act was published in the Official Journal on 28 March 2014.

The main points of the new legislation concern the elements aimed at SMEs, the promotion of a more responsible economy, the prevention of corruption, the reduction of administrative burdens, including through E-procurement, and an increase of transparency. The implementation deadline was 18 April 2016.

References:

- European Commission, Green Paper on the modernisation of EU public procurement policy - Towards a more efficient European procurement market, COM(2011) 15
- European Commission, New rules to help make public procurement more efficient, transparent and SME-friendly, website

Further reading:

- European Parliament, Library, Improving EU public procurement policy, Briefing, April 2011

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As of 20 October 2018
For a brief overview of the key points of the adopted text and its significance for the citizen, please see the corresponding summary note.

As part of its aviation strategy for Europe, the Commission presented a legislative proposal on 7 December 2015 on civil aviation safety and on the mandate of the European Aviation Safety Agency (EASA), which repeals the former EASA’s Basic Regulation (Regulation 216/2008). The proposal aimed to prepare the EU aviation safety system for the challenges of the future, including a new era of innovation and digital technologies, and to continue to ensure safe, secure and environmentally friendly air transport. It aimed to contribute to a competitive European aviation industry and to aeronautical manufacturing.

In the proposal, the Commission introduced a number of risk and performance based rules, which set out objectives but also left some flexibility as to the means used to achieve them. It also promoted the adoption of non-binding measures (such as safety promotion actions) wherever possible.
The proposal revised the scope of the common rules. It introduced essential safety requirements for groundhandling services and made a number of changes that took account of the compromise reached within the Council on the Single European Sky 2+ proposal: a reform that aims to deal with the growth of air traffic, increase security, reduce costs, delays and the impact of air traffic on the environment. The Commission proposed strengthening the EASA’s competencies, e.g. in the field of security (including cyber-security) and the environment, and suggested certain changes to EASA’s structure (e.g. the creation of an Executive Board to assist the Management Board and the Executive Director). It also put forward several measures to ensure the more efficient use of existing resources (e.g. sharing aviation inspectors).

The Commission proposed a basic legal framework for the safe development of drone operations in the EU. Given the vast range of drones that are used under operation conditions that can vary widely, the Commission considered that a risk-based framework needed to be put in place rapidly. The Commission took into account concerns related to privacy and data protection, security, liability and insurance and the environment. The Commission believed that this framework should be set up at EU level in order to ensure the safe interaction with existing airspace users subject to EU rules and to create a large single home market, which is of particular relevance for SMEs and start-ups. It called for an approach that covers all drones, even small ones, and to ensure that rules are proportionate to the risk, so that new developments are not hampered by unnecessarily heavy and costly rules and procedures, in line with the Commission’s Better Regulation approach.

The EP’s Committee on Transport and Tourism (TRAN) voted on 10 November 2016 on its report (rapporteur: Marian-Jean Marinescu (EPP, RO)) on the updated aviation safety rules. TRAN Committee members were in general supportive of the Commission proposal. However, Members called for the aviation authorities to be given the necessary human and financial resources to deal with their tasks adequately. They considered that the regulation should also address working conditions and their effect on aviation safety. They also introduced a requirement of minimum services of air traffic management/air navigation services in the event of unforeseen circumstances or service disruption. On the issue of drones, Members added some further requirements, for instance, on registering drones, using auto-avoidance systems, licensing drone pilots and informing drone users about their obligations in a leaflet. The report constituted Parliament’s position for negotiations with the Council. In its resolution of 16 February 2017 on an Aviation Strategy for Europe, Parliament welcomed the review of the EASA Basic Regulation (Regulation (EC) No 216/2008) and called on the Commission and the Council ‘to equip EASA with sufficient resources and staff to ensure high safety standards and to strengthen its role on the international scene’.

Both advisory committees have shared their views on the proposal, by welcoming the idea of adopting EU-wide rules on drones. The Transport, Telecommunications and Energy Council agreed on a general approach on updated aviation safety rules to start the negotiations with the Parliament on 1 December 2016. The Member States in general supported the adoption of EU-wide rules on drones as well as making rules proportionate and dependent on the risk. They also agreed on the need to strengthen cooperation on the security matters. However, most Member States did not support changes to the name and financing of the Agency, neither did they support the creation of a new oversight mechanism, allowing the EASA to take over certain oversight tasks.

Interinstitutional negotiations finally came to an end when the different parties reached a political agreement in late November, which was endorsed in the Council by the Permanent Representatives Committee on 22 December 2017. The agreement includes the first ever rules on drones, providing for the certification of higher-risk drones operations and the registration of drone operators meeting a certain threshold. The agreement also covers safety-related aspects of security, such as cyber security. TRAN Committee approved the agreed text on 23 January 2018 and the Parliament as a whole on 12 June 2018. The Council signed off the updated civil aviation safety
rules on 26 June 2018. The regulation was published in the EU Official Journal on 22 August 2018. It is now in force. The Commission opened in April 2018 also a public consultation process for developing more detailed rules on drones.

References:

- EP Legislative Observatory, Procedure file of Regulation on Common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, 2015/0277(COD)
- European Parliament, Committee on Transport and Tourism report on the proposal for a regulation on civil aviation safety and the mandate of the European Aviation Safety Agency (EASA), 2015/0277(COD)
- Council, Updated aviation safety rules and new rules on drones approved by the Council, Press release, 22 December 2018
- European Commission, Public consultation on drones, website
- Council, Ensuring aviation safety and safe use of drones: Council signs off on EASA reform, Press release, 26 June 2018

Further reading:

- European Parliament, EPRS, New civil aviation safety rules, Briefing, EU legislation in progress, March 2018

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As of 20 October 2018
For a brief overview of the key points of the adopted text and its significance for the citizen, please see the corresponding summary note.

In its Work Programme 2016, the Commission announced plans to introduce concrete measures to help start-ups grow. One particular field of interest is to ensure that the Single Digital Gateway properly addresses the needs of start-ups. The Single Digital Gateway...
Gateway aims to extend and integrate both national and European portals with a view to creating a user-friendly information system. A public consultation showed that a better access to information on financing opportunities would be helpful, and that many legal, regulatory and administrative barriers remain. The lack of a single entry point (one-stop-shop) for start-up procedures was considered by many respondents to be an obstacle to actually start a company.

On 2 May 2017 the Commission published a ‘Compliance package’ with three proposals: (1) Proposal for establishing a single digital gateway to provide information, procedures, assistance and problem solving services, (2) Proposal for setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas, and (3) Action plan on the Reinforcement of SOLVIT: Bringing the benefits of the Single Market to citizens and businesses.

The proposal for establishing a single digital gateway is part of this package. The intention is to allow citizens and businesses to access and carry out administrative procedures online, thus allowing to use the advantages of the single market in an easier way, which is less time-consuming and less expensive. A centralised access to all information necessary for those who want to use their rights to mobility in the EU will be provided. The obligation will be imposed on Member States to create full online access to the most important and most often used procedures. This information should be accurate, complete, up-to-date, and available in at least two languages: that of the Member State, plus at least one other official language of the Union. This new user-centric framework is expected to create substantial advantages for SMEs and start-ups. The comprehensive move to online procedures is destined to modernise public administration and to make it more cost effective. It will also smoothen cross-border exchanges, generate efficiencies, as well as reduce red tape. The proposal is amending Regulation (EU) No 1024/2012 on administrative cooperation (‘IMI Regulation’).

On 30 May 2017 the EP’s Internal Market and Consumer Protection Committee (IMCO) appointed Mrs. Marlene Mizzi (S&D, Malta) as rapporteur. On 22 February the IMCO committee adopted its report and decided to open interinstitutional negotiations (trilogues) with Council and Commission, in view of reaching a first-reading agreement. The committee report, which outlines the negotiation position of Parliament in the trilogues, broadly supports the Commission proposal and further concentrates on issues such as clarity and simplicity, data protection, improved access for the disabled, the creation of a logo, quality requirements, and additional information obligations towards the European Parliament and the Economic and Social Committee. The single point of entry would be integrated in the portal ‘Your Europe’ which is provided by the European Commission. The digital portal would not be the sole way of communication with authorities, and traditional methods, such as face-to-face contacts may still be requested by authorities. The use of technical systems for communicating with authorities should not be mandatory. Services would be offered free of charge to a wide range of SMEs as well as non-profit organisations. The choice of languages, that are to be used in addition of those of a Member State, should be limited to those that are broadly understood by the largest possible number of users. Non-nationals should not get more rights than nationals when using the single digital gateway. More precision is given on where delegated and implementing acts can be used to fine-tune this legislative framework. The European Parliament should receive a seat in the gateway coordination group.

The European Economic and Social Committee (EESC) adopted its opinion on 18 October 2017. It is broadly supportive of the initiative, especially the ‘only once’ principle, but also draws the attention to the fact that there are divergent opinions amongst various civil society organisations.

In the Council, the topic was discussed in 14 meetings of the Working Party on Competitiveness and Growth (Internal Market). The main points discussed were on gateway services, requirements related to online procedures, including the once-only principle, the
collection of user feedback and statistics, the technical solutions and the annexes laying out the areas for which information would be
provided and the number of procedures offered online, both of which would be enlarged. The Competitiveness Council agreed on a
general approach on 30 November 2017. Interinstitutional negotiations (trilogues) in view of achieving a first reading agreement were concluded on 24 May 2018. The number
of procedures that can be completed fully online will be extended from 13 to 21, and the number of areas in which information is to
be provided will be increased. The gateway will be accessible through the Your Europe portal, and many quality requirements were
improved. The language other than that of a Member State will be defined as the one broadly understood by the largest number of
cross-border users.

On 20 June the Coreper agreed on the outcome, and on 12 July the IMCO committee also confirmed the provisional agreement, which
was then adopted by Parliament in plenary on 13 September 2018. Council adopted it at the sitting of the Competitive Council of 27-
28 September, and the final act was signed on 1 October 2018.

References:

- EP Legislative Observatory, Procedure file on the single digital gateway, 2017/0086(COD)
- European Commission, Report on the public consultation under the Start-up initiative, website
- European Commission, Proposal for a regulation on establishing a single digital gateway to provide information, procedures, assistance and problem solving services, COM(2017) 256; accompanying documents
- Council of the European Union, General approach on a single digital gateway, 30 November 2017
- Council of the European Union, Analysis of the final compromise in view of an agreement, 15 June 2018

Further reading:

- European Parliament, EPRS, eGovernment - Using technology to improve public services and democratic participation, In-depth Analysis, September 2015
- European Parliament, EPRS, Single digital gateway, Legislative briefing, September 2017

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As of 20 October 2018
MODERNISATION OF THE IPR FRAMEWORK: REVIEW OF EU IP ENFORCEMENT
FRAMEWORK / 2017

UPGRADING THE SINGLE MARKET STRATEGY

CONTENT

The Directive on the enforcement of intellectual property rights (‘IPRED’) adopted in April 2004 requires all EU countries to apply effective, dissuasive, and proportionate remedies and penalties against those engaged in counterfeiting and piracy and aims to create a level playing field for right holders in the EU.

The Commission announced in the 2015 Digital Single Market Strategy for Europe that they would review the IPR enforcement
framework in order to respond to the increasingly cross-border nature of infringements.

In November 2017, the Commission adopted the Guidance Communication clarifying the provisions of IPRED where there have been differing interpretations in EU countries.

The guidance provides clarification where there have been diverging interpretations on IPRED provisions in the Member States by reference to the case law of the EU Court of Justice and national "best practices". Provisions relating to scope, rules on obtaining and preserving evidence, injunctions, or calculation of damages have been clarified.

The Commission indicates they will work with Member States' national experts and judges on further, more targeted guidelines in order to give more detailed and practical guidance on specific IPRED issues, based on best practices experience.

References:

- Directive 2004/48/EC on the enforcement of intellectual property rights ('IPRED')
- European Commission, Summary of responses to the public consultation on the evaluation and modernisation of the legal framework for IPR enforcement, September 2016
- European Commission, Communication - Towards a modern, more European copyright framework, COM(2015) 626

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RECOGNITION OF PROFESSIONAL QUALIFICATIONS IN INLAND NAVIGATION
As part of the policy areas of transport and employment, the European Commission proposed to establish a common system of qualifications for inland navigation crew based on acquired competence, to allow workers move more freely where their skills are needed.

While the current EU legislation applies only to boatmasters and does not include River Rhine, the proposed directive extends the scope of recognition of professional qualifications beyond boatmasters to all crew involved in the operation of vessels and includes the Rhine River.

The provisions establish:

- common standards for certificates for boatmasters and other persons involved in the operation of a vessel navigating on EU inland waterways, based on their competences
- common criteria and procedures for the assessment of required competencies
- criteria ensuring that requirements related to the knowledge of specific situations on specific inland waterway stretches are proportionate to their safety goal

The European Parliament, in its 9 September 2015 resolution on the Implementation of the 2011 White Paper on transport, called specifically for a legislative proposal on professional qualifications and measures to attract more young people to the sector. It also supported the convergence of the Rhine and the Danube regulatory systems, where appropriate.

As for the current proposal, three Parliament Committees contributed to the Parliament’s position. The Committee on Legal Affairs (JURI) in its opinion suggested amendments to keep specific exemptions for Member States and extend the transitional period. The Committee on Employment and Social Affairs (EMPL), as an associated committee proposed several precisions concerning work experience, training and examination standards.

The Committee on Transport and Tourism (TRAN) rapporteur Gesine Meissner (ALDE, Germany) proposed changes to

- the scope of application of the directive,
- assessment of competence for navigating on stretches with specific risks,
- recognition of certificates delivered by third countries,
- examination of competences and easing entrance conditions for seafarers and fishermen,
- and asked for additional competences for boatmasters

The TRAN Committee adopted the report on 10 November 2016 and gave a mandate to the rapporteur to start interinstitutional
The Transport Council adopted a general approach on 7 June 2016. It mainly reflects Member States’ concerns regarding proportionality and preventing administrative burden to countries with little or no inland navigation activity. When such states meet objective criteria, they will not be required to transpose the directive or parts of it. Other changes introduced concern concrete minimum requirements, longer validity of boatmasters’ certificates and evaluation.

The new Annex IV would give significant standard-setting competences to the European committee developing common standards for the EU and the CCNR for inland navigation (CESNI, composed of experts from EU Member States and Switzerland), where the European Commission may participate, but without voting rights, and the European Parliament is not represented. The Council gave a mandate to the Slovak EU Presidency to enter into negotiations with the Parliament.

The European Economic and Social Committee in its opinion of 13 July 2016 (rapporteur Jan Simons, Group I - Employers, the Netherlands) agreed that professional qualifications based on required competences and recognised across the EU will help the IWT sector. Furthermore, it called for the preservation of existing safety standards, close cooperation with the river commissions (in particular the CCNR) and objective criteria for identifying the stretches of water with specific risks.

Inter-institutional negotiations concluded on 27 June 2017. It was agreed that Member States should recognise professional qualifications based on competence and certified in line with this directive. This holds also for certificates issued by third countries, if they are based on identical requirements and the country in question guarantees reciprocal recognition of EU certificates. On national inland waterways not linked to a navigable waterway of another Member State, EU certificates need not be compulsory (but EU certificates will allow access to navigation on these waterways). Member States with non-linked waterways can transpose only minimum provisions, while those with no navigable inland waterways can derogate from the directive.

Among the many specific issues clarified are additional competences for the crew involved in navigation, validity of the current certificates (including sea-going ones) and validation of the time served on board. Further specifications concern training programs and examinations (also on simulators), databases keeping track of the certificates issued and also of the stretches of waterways presenting a particular risk. The Commission and Member States should support social partners’ activities encouraging young people and women to seek a professional qualification in inland navigation.

The directive will not apply to the navigation for sport or pleasure, ferries not moving independently, armed forces and emergency services. Within two years and referring to CESNI standards, the Commission should adopt acts specifying competences, medical fitness, practical examinations, simulators approval and database access.

The Parliament adopted the agreed text on 14 November 2017 and the Council approved the EP position on 4 December 2017. After a signature by both legislators on 5 December 2017, the final act was published in the Official Journal on 27 December 2017 and entered into force 20 days later. Member States have until 17 January 2022 to transpose the provisions into their national law.
References:

- EP Legislative Observatory, Procedure file on Recognition of professional qualifications in inland navigation, 2016/0050(COD)
- European Economic and Social Committee, Recognition of professional qualifications in inland navigation, Opinion, 13 July 2017

Further reading:

- European Parliament, EPRS, Recognition of professional qualifications in inland navigation, Briefing, EU legislation in progress, February 2018

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As of 20 October 2018

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DRIVERS OF CERTAIN ROAD VEHICLES FOR THE CARRIAGE OF GOODS OR PASSENGERS: INITIAL QUALIFICATION AND PERIODIC TRAINING; DRIVING LICENCES

CONTENT

Existing provisions regarding the training of professional drivers are governed by Directive 2003/59/EC that lays down the initial qualification and periodic training requirements for professional drivers of trucks and buses, thus contributing to the improvement of road safety. That piece of legislation is part of the general framework regarding trucks and buses professional drivers, closely related to road safety as well as to the EU acquis on driving licences (Directive 2006/126/EC), transport of dangerous goods (Directive 2008/68/EC), driving and resting times rules (Regulation (EC) No 561/2006) and market access rules.

While the 2012 evaluation report concluded that Directive 2003/59/EC was implemented without major problems, was effective in contributing to road safety, improved labour mobility and the free movement of drivers, it also identified shortcomings affecting the effectiveness and consistency of the legal framework as well as the Directive objectives. On 1 February 2017, the Commission adopted a legislative proposal amending Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers and Directive 2006/126/EC on driving licences, whose purpose is to tackle the main shortcoming identified. These were: 1) the difficulties for drivers to obtain recognition of the training undertaken in another Member State; 2) training content only partially relevant to drivers’ needs; 3) difficulties and legal uncertainties regarding the interpretation of exemptions; 4) inconsistencies between Directive 2003/59/EC and Directive 2006/126/EC when it comes to the minimum age requirements, ambiguity concerning the possibility to combine training under Directive 2003/59/EC with the training courses required under other pieces of EU legislation (i.e. hazardous goods (ADR), passenger rights and animal welfare training), and lack of clarity concerning the use of ICT for training courses such as e-learning or blended learning). Aiming to contribute to higher safety standards and to ease the mobility of drivers, the proposal embraces the modernization of training, underlying for instance the importance of protection of vulnerable road users and the optimization of fuel consumption, as well as a better recognition of the training undergone in another Member State.

This initiative was announced in the Annex II REFIT initiatives of the 2017 Commission Work Programme, which specifically mentioned...
the revision of Directive 2003/59/EC and the follow up to the evaluation completed in July 2016. Discussions within the Council Working Party on Land Transport started and the Council agreed on 8 June 2017 its position (a ‘general approach’) on the proposal.

The legislative proposal has been assigned to the European Parliament’s Committee on Transport and Tourism which designated Peter Lundgren (EFDD, Sweden) as rapporteur. The Employment and Social Affairs Committee decided not to give an opinion. In a recent resolution of 9 September 2015, the EP called for ‘a review of the Professional Drivers Training and Qualification Directive with the aim of clarifying its provisions, and the promotion and development of post-licence training schemes for all vehicle users; ‘mandatory training for drivers in new vehicle functions (driver assistance systems)’; ‘fitness test for drivers’ and a ‘harmonised EU blood alcohol concentration limit of 0.0 for new drivers in the first two years and for professional drivers’. During the 19-20 June 2017 meeting of the Committee on Transport and Tourism, the rapporteur presented his draft report, which apart from a couple of modifications and additions, is very close to the Council’s general approach. The Committee adopted the report on 12 October 2017 with no abstentions and no vote against. The report introduced a few changes such as specific provisions related to driving in extreme weather conditions, the addition of a few exemptions, and the idea of a common EU-wide register to help enforcement authorities fighting against illegal trade in fake licences.

Interinstitutional (trilogue) negotiations resulted in a provisional agreement on the proposal on 12 December which was endorsed by Coreper for the Council on 20 December. The text, eventually endorsed by the EP Transport and Tourism Committee on 23 January, was largely approved at first reading by the EP Plenary on 13 March 2018. The Council formally approved the agreement on 12 April 2018.

The final act was signed on 18 April 2018, published in the Official Journal on 2 May 2018 and enters into force on 23 May 2018. Member States have until 23 May 2020 to comply with the Directive, except for the provisions of the point 6, Article 1 (enforcement network), which will be brought into force by 23 May 2021.

References:

- EP Legislative Observatory, Procedure file on a Directive on drivers of certain road vehicles for the carriage of goods or passengers: initial qualification and periodic training; driving licences, 2017/0015(COD)
- Council, Outcome of the Transport, Telecommunications and Energy Council meeting of 8 and 9 June 2017
- Council, Lorry and bus drivers' training: provisional agreement with Parliament on updated rules, Press release, 12 December 2017
- Council, Updated rules on lorry and bus drivers' training adopted by the Council, Press release, 12 April 2018
Further reading:

- European Parliament, EPRS, *Training of professional drivers*, Briefing, EU legislation in progress, March 2018

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As of 20 October 2018

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PROPORTIONALITY TEST BEFORE ADOPTION OF NEW REGULATION OF PROFESSIONS

> SERVICES PACKAGE

CONTENT

For a brief overview of the key points of the adopted text and its significance for the citizen, please see the corresponding summary note.

As part of the roadmap laid out in the Single Market Strategy, the European Commission published on 10 January 2017 several proposals in order to unlock the full potential of the Single Market. Instead of amending existing EU rules in the area of services, the Commission focused on better application.

The EU does not regulate professions, the regulation of professional services remains a prerogative of the Member States. It is up to each Member State to decide whether there is a need to intervene and impose rules and restrictions for the access to or pursuit of a profession, so long as the principles of non-discrimination and proportionality are respected.

Between 27 May and 22 August 2016, the European Commission carried out a public consultation with the participation of individuals, members of regulated professions, professional associations, regulatory bodies, government authorities and academics. There was a broad consensus across stakeholders that action should be taken at EU level to introduce clarity and a common approach concerning proportionality tests. The issues were also discussed with Member States at the High Level Group meeting of 3 May 2016 and 10 November 2016.

On 10 January, the European Commission published a Proposal for a regulation of the European Parliament and the Council introducing a proportionality test before adoption of new regulation of professions.

The scope of the directive is to create a legal framework for conducting proportionality assessments before introducing new or modifying existing legislative, regulatory or administrative provisions restricting access to or pursuit of regulated professions.

Member States would have an obligation to conduct an ex-ante proportionality assessment, substantiated by qualitative and, wherever possible, quantitative evidence before introducing new or modifying existing provisions restricting access to or pursuit of regulated professions. The proposal set out the main criteria, which have to be considered by the competent authorities, such as the nature of the risks, the scope of the activities, reserved to a profession, the link between the qualification and the activities, or the economic impact of the measure. It also underlined the obligation to inform all interested parties before introducing new measures and give them the possibility to express their views, as well as the mandatory exchange of information between competent authorities of different Member States, allowing the Member State which intends to reform a profession to gather the information on the experience of other Member States.
The Commission proposal has been presented in the Council on 13 January 2017.

The IMCO Committee of the European Parliament presented its draft report on 23 June 2017.

This report proposed several changes: excluding healthcare services from the scope of the directive in order to focus efforts on the remaining sectors of activities; addressing explicitly gold-plating practices (unnecessary requirements imposed by Member States); removing the obligation to consult an independent scrutiny body, clarify the reasons of the introduction of additional requirements which might be suitable to attain public interest objectives; as well as informing equally all interested parties and in addition, introduce a possibility for wider public consultations.

Reasoned opinions were presented by the German Bundestag on 14 March 2017, by the Austrian Bundesrat on 3 April 2017, and by the French Senate on 17 March 2017. Main subsidiarity concerns were that provisions on the TFUE exclude harmonisation at EU level in several domains (tourism, transports, healthcare services) and that the Commission proposal does not allow any derogations (for instance in urgent matters).

In the Council, the proposal has been discussed on the meeting of the Permanent Representatives Committee on 10 May and by the Competitiveness Council on 29 May. The following suggestions have been made to the text:

• the term ‘regulated professions’ should be clarified,
• materials accompanying newly introduced or amended provisions should include an explanation which is sufficiently detailed,
• the exchange of best practices between Member States in terms of regulating professions should be encouraged,
• Member States shall consider the economic impact of the measures with regards to competition on the market and the free movement of persons.

The Economic and Social Committee released an opinion on the whole services package on 31 May 2017. In this opinion, the EESC expressed that the concept of a proportionality test could improve national proportionality procedures, however, the proportionality check will require a close cooperation of Member States authorities and professional organisations. The European Committee of the Regions presented its opinion on the services package on 11 October.

In the Parliament, the IMCO Committee report was tabled for Plenary on 8 December 2017. On 13 December 2017 the Plenary confirmed the decision to enter into interinstitutional negotiations. During the trilogues, the Council sought to enhance the competence of Member States to regulate professions and limit obligations to the transparency of the national regulatory process.

On 20 March, a trilogue meeting took place and a compromise text has been agreed, which has been presented to discussion on the Council meeting on 11 April.
In the Parliament, the IMCO Committee approved the text agreed at 1st reading interinstitutional negotiations on 24 April 2018. The compromise text was adopted in the Parliament on 14 June 2018.

On 21 June, the Council adopted the act. The final act was signed on 28 June and published in the Oficial Journal on 9 July 2018. It entered into force on 29 July 2018.

References:

  - European Economic and Social Committee, *Opinion on the Services package, 31 May 2017*

Further reading:

- European Parliament, EPRS, *Proportionality test for new national regulations for professions*, Legislative briefing, December 2017

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As of 20 October 2018
SAFETY RULES AND STANDARDS FOR PASSENGER SHIPS

> REVIEW OF PASSENGER SHIP SAFETY

CONTENT

The European Commission, in line with its regulatory fitness and performance programme (REFIT, announced in Commission Work Programme 2015), has evaluated existing EU legislation on passenger ship safety and presented three proposals for directives, aimed at simplifying rules and cutting administrative costs, while at the same time making sea travel safer.

The proposal updates Directive 2009/45/EC, which set safety standards for passenger ships made of steel or equivalent material and high-speed craft (HSC) providing domestic services, seeking to ensure a high level of safety and remove barriers to trade. The newly defined standards should provide for uniform national interpretations and make the rules easier to update, monitor and enforce.

The Commission proposal (adopted on 6 June 2016):

- removes redundant or inconsistent references and clarify some definitions (of traditional and sailing ship, tender ship, pleasure yacht and craft);
- excludes from the Directive scope offshore service vessels, tenders, traditional and sailing ships and ships below 24 metres built from steel or equivalent material;
- specifies that aluminium is the only material equivalent to steel. Hence, ships built from aluminium should fall in the Directive scope and, consequently, comply with the corresponding fire safety standards. This entails significant retrofitting costs and concerns about 100 vessels, mostly in France and Italy;
- simplifies the definition of sea areas, where ships can operate;
- proposes to use an existing platform as a database to increase transparency and facilitate the notification of exemptions, equivalences and additional safety measures (to be included both in their draft and adopted form);
- aligns the Directive with the Treaty on the Functioning of the European Union (TFEU) as regards the power conferred on the Commission to adopt delegated and implementing acts.
The European Parliament appointed Daniela Aiuto (EFDD, Italy) as rapporteur on 15 June 2016. The rapporteur presented her draft report to the Committee on Transport and Tourism (TRAN) on 27 February 2017, generally supporting the Commission proposal and asking for guidance on safety standards for smaller and exempted ships.

On 11 April 2017, the TRAN Committee adopted a legislative report. It supports the exclusion of ships below 24 metres (while asking the Commission to provide guidelines to ensure their safety), vessels transporting offshore workers, tenders and sailing ships with auxiliary mechanical propulsion. While also supporting the inclusion of vessels made of aluminium, it suggested a longer transition period for their adaptation (8 years for fleets of over 60 ships). In addition, for the purposes of vessel classification, Greece should be allowed to keep using the concept of sea routes rather than define sea areas. Finally, the EU should actively monitor and improve the social conditions of workers, which impact on vessel safety.

In Council, the Shipping Working Party started examining the proposal in July 2016. It agreed on a number of changes concerning several revised definitions and a simplification of the classification of sea areas and ships operating in them. Also discussed were possible exemptions for Member States with no maritime ports and no ships flying their flag, the extension of the transposition deadline (to 36 months) and the compliance deadline (to seven years for existing aluminium ships and to 14 years for Member States with more than 60 aluminium passenger ships, if these ships operate exclusively between national ports – which applies to France only).

The Transport Council, at its meeting of 1 December 2016, adopted a general approach. Remaining reservations concerned the exclusion of offshore vessels and sailing ships from the scope. The Transport Commissioner Violeta Bulc considered the suggested 14-year derogation from a directive unacceptable. She also reaffirmed that the directive has no adequate standards for ships primarily propelled by sail and, consequently, national standards apply without compromising their safety.

The European Economic and Social Committee (EESC) in its opinion (rapporteur: Tomas Abrahamsson, Group II – Workers, Sweden) welcomed the inclusion of aluminium ships in the directive, and recommended further clarification of the technical standards applicable. It also noted with appreciation the attention paid to accessibility for persons with reduced mobility, seen as an important aspect of EU added value, as opposed to the international standards. For the sake of passenger safety, however, it recommended keeping new ships below 24 metres within the scope of the directive.

Negotiations between the Council, the Parliament and the Commission concluded on 15 June 2017. The compromise text was approved in the TRAN Committee on 11 July 2017.

It was agreed that ships below 24 metres, as well as sailing ships and ships not propelled by mechanical means, tenders and offshore service ships remain outside the scope of the directive. Member States with no seaports and no ships flying their flag can derogate from the directive and Greece can derogate from the rule on establishing sea areas. Member States with more than 60 passenger ships made from aluminium can also derogate (10 years for ships built before the directive enters into force and 12 years for new ships, if they operate only between ports of that Member State). The Commission’s power to adopt delegated acts has been limited to
seven years and the transposition period to two years.

The text was adopted by the EP in 1st reading on 4 October 2017.

On 23 October 2017, the Council (Employment, Social Policy, Health and Consumer Affairs) unanimously adopted the final legislative text.

The final act was signed by the President of the EP and by the President of the Council on 15 December and published in the Official journal on 30 November 2017. It entered into force on 20 December 2017. Member States have until 17 January 2022 to comply.

References:

- European Economic and Social Committee, Opinion on Passenger ships - Safety rules and standards, 19 October 2016

Further reading:

- European Parliament, EPRS, Safety rules and standards for passenger ships, Briefing, EU legislation in progress, February 2018

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As of 20 October 2018
REGISTRATION OF PERSONS SAILING ON BOARD PASSENGER SHIPS

> REVIEW OF PASSENGER SHIP SAFETY

CONTENT

In a follow-up to the regulatory fitness check (REFIT, announced in Commission Work Programme 2015) of the EU legislation on passenger ship safety, the European Commission proposes to amend the requirements set by Directive 98/41/EC for counting and registration of passengers and crew on board passenger ships and to remove any overlap in reporting obligations or disproportionate requirements.

Changes introduced by the Commission proposal (published on 6 June 2016):

- Digitalisation of reporting obligations. Passenger data would no longer be kept by the ship company, but recorded in an electronic system and transmitted immediately to the National Single Window (an electronic reporting tool introduced by Directive 2010/65/EU; it allows ship data providers to report all maritime information, which is then made available to the relevant authorities)
- An alternative is proposed for companies operating voyages shorter than 20 nautical miles (about 37 km), which often do not
have computer systems or internet connection. These could transmit only the number of persons on board to the designated authority through the ship's automatic identification system (AIS, based on high frequency radio signals).

- Clarification of the scope of application of the directive (explaining how to interpret the threshold of 20 nautical miles and the inner border of the sea area in estuaries and ports)
- Alignment with the TFEU provisions as regards the power given to the Commission to adopt delegated and implementing acts.

The European Parliament has been the driving force behind many improvements to the EU maritime safety regime. While recognising its preference for shipping agreements to be concluded at a global scale at the IMO, Parliament fully supports the Union's role in the transposition of international rules into EU law, as well as the strengthening of EMSA's role. In its resolution of 9 September 2015 on the implementation of the 2011 white paper on transport, the Parliament specifically called for a legislative proposal to modernise passenger ship safety legislation.

On 11 April 2017, the EP Committee on Transport and Tourism (TRAN) adopted the report prepared by Izaskun Bilbao Barandica (ALDE, Spain). The TRAN Committee added an additional option for operators on shorter routes to report the number of persons on board via a local Member-State-approved electronic system. Next to the information on nationality, the report proposed to collect the full date of birth as well as information on special care or assistance, to shorten the period for recording passenger information and to have the personal data destroyed immediately after the voyage or an investigation.

On 1 December 2016, the Council adopted a progress report. Member States questioned whether the national single window, which had only recently become operational, would have all the required functionalities without causing additional administrative burdens. Some pointed out that search and rescue services may not always have access to the AIS system, the suggested alternative means of reporting. They proposed, therefore, to keep a third, shore-based registration option for shorter voyages and small ships. Further concerns were raised regarding the use of data for purposes other than safety, the data retention period and verification of data accuracy, as well as the directive transposition period, which was seen as too short.

The Council adopted its general approach on 8 March 2017. It further clarified several definitions, introduced a transitional period of ten years when the use of the current system is allowed, specified the maximum retention period for personal data (60 days) and introduced exemptions under certain conditions, including geographical ones.

The European Economic and Social Committee (EESC) welcomed the proposed use of modern electronic reporting methods. The EESC agreed with adding nationality to the information recorded and recommended specifying the data retention period. As regards small carriers, the EESC underlined the need to protect them against increased red tape and welcomed the alternative solution offered.

Negotiations between the Council, the Parliament and the Commission concluded on 14 June 2017. The compromise text was approved in the TRAN Committee on 11 July 2017.

It was agreed that within 15 minutes of the ship's departure, the number of persons on board should be reported to the single
window (a European single window in the future) or to the designated authority through AIS. Member States can grant exemptions from the obligation to report in the single window to regular services of less than one hour and several specific geographic services. Exemptions will be recorded in a publicly accessible database. Moreover, for a transitional period of six years, Member States can continue the current systems of reporting to the company's passenger registrar or to the shore-based company system.

Personal data, collected in line with Union law (including the full date of birth), should not be kept by the transport company and be erased automatically by Member States once the ship's voyage or incident investigation is completed.

The directive will not apply to pleasure yachts and a derogation can be granted to landlocked Member States with no passenger ships flying their flag. The Commission's power to adopt delegated acts has been limited to seven years and the transposition deadline set at two years after the directive's entry into force.

The text was adopted by the EP in 1st reading on 4 October 2017.

On 23 October 2017, the Council (Employment, Social Policy, Health and Consumer affairs) adopted the final legislative text (27 votes for, Germany against).

The final act was signed by the President of the EP and by the President of the Council on 15 December and published in the Official journal on 30 December. Member States have to transpose the new provisions into their law by 21 December 2019, when they start to apply.

References:

- EP Legislative Observatory, Procedure file on Registration of persons sailing on board passenger ships operating to or from ports of the Member States: simplification, 2016/0171(COD)
arriving in and/or departing from ports of the Member States, 2016/0171(COD)

- European Economic and Social Committee, *Opinion on Passenger ships - registration and reporting formalities*, 19 October 2016

**Further reading:**

- European Parliament, EPRS, *Registration of persons on board passenger ships*, Briefing, EU legislation in progress, February 2018

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As of 20 October 2018

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INSPECTIONS OF RO-RO FERRIES AND PASSENGER CRAFT

> REVIEW OF PASSENGER SHIP SAFETY

CONTENT

In a follow-up to the regulatory fitness check (REFIT, announced in Commission Work Programme 2015) of the EU legislation on passenger ship safety, the European Commission proposes to rationalise inspections conducted by national administrations while ensuring a high level of passenger ship safety and without unnecessarily limiting the ship’s commercial operations, making the inspections system for these ships simpler, more effective and cheaper.

This would be achieved by changing focus from initial company-based inspections to ship-based ones and by ensuring that subsequent inspections occur at regular intervals. The Commission proposes to replace Directive 1999/35/EC on mandatory surveys and amend Directive 2009/16/EC on port state control, creating a robust inspection regime without gaps and overlaps.

The Commission proposal (adopted on 6 June 2016):

- eliminates redundant references and definitions;
- limits the scope of the Directive to ships providing regular passenger services between ports within a Member State or between a port in a Member State and a port in a third State, which is the ship’s flag state;
- the focus of initial inspections changes from company-based inspections to ship-based ones;
- subsequently, ships will be inspected twice per year as before, but the inspections should be spaced out (not consecutive), one of them happening in-service during a regular crossing. These inspections can be combined with the annual flag state survey of the vessel;
- aligns a number of provisions (concerning inspection reports, prohibitions of departure, appeals, costs, the inspection database and penalties) with Directive 2009/16/EC on port state control; which in turn is amended to ensure that the current frequency and content of inspections of ro-ro ferries and high-speed passenger craft are maintained;
- aligns the directive with the provisions of the TFEU as regards the powers conferred to the Commission to adopt delegated acts (Article 290).

The European Parliament appointed Dominique Riquet (ALDE, France) as rapporteur on 27 June 2016. The rapporteur presented his draft report to the Committee on Transport and Tourism (TRAN) on 27 February 2017, generally supporting the Commission proposal.

On 11 April 2017, the TRAN Committee adopted a report clarifying the scope of the proposed directive and that of Directive 2009/16/EC with regard to the port state inspection regime. Given the specific risk profile of ro-ro ferries and high-speed passenger craft, the report recommended that these vessels should be inspected as a matter of priority and at regular intervals. In addition, inspections should check the working conditions of the crew, as they impact on the ship safety. The report proposed to limit the power given to the Commission to adopt delegated acts to a five-year period.
In Council, the Shipping Working Party examined the proposal in September 2016, and agreed on a number of clarifications regarding the scope, terminology adjustments, and changes to definitions, as well as the specification of the time window for yearly inspections. Moreover, the parties proposed to extend the transposition deadline to 36 months and the possibility for exemption from obligatory transposition for Member States with no maritime ports. In addition, the parties wished to set a time limit to the powers delegated to the Commission.

After a debate in COREPER, the Transport Council adopted a general approach on 1 December 2016, with reservations on parliamentary scrutiny for the UK and Denmark.

The Commission for its part had reservations on the derogation for states with no seaports.

The European Economic and Social Committee (EESC), in its opinion of 19 October 2016 (rapporteur Jan Simons, Group I – Employers, the Netherlands), welcomed the simplifications envisaged as providing more legal clarity and rationalising the number of inspections to be conducted by national administrations, while maximising the ship’s commercial operations. The EESC considered, however, that further clarification is needed on the proposed inspection database and on how the inspections performed under the new directive would influence the ship’s risk profile.

Negotiations between the Council, the Parliament and the Commission concluded on 14 June 2017. The compromise text was approved by the TRAN Committee on 11 July 2017.

The agreed text takes over the Parliament’s concerns that the inspections should take into account the working environments and personal lives of the crew.

It also makes use of the changes proposed by the Parliament as regards the pre-commencement inspections, the specifications of the time window between two inspections (not less than four and not more than eight months) as well as the clarifications of the scope (the directive does not apply to ro-ro passenger ships and HSC falling under the directive 2009/16/EC, such as in cases of a regular service between a Member State and a third country if the flag of the vessel is not the same as the flag of the Member State in question).

Derogations can be granted to Member States with no seaports and river ports with only limited passenger vessel traffic (passenger ships or HSC represent maximum 5% of all vessels calling). The Commission’s power to adopt delegated acts is limited to seven years, while the transposition delay is two years after the directive entered into force.

The text was adopted by the EP in 1st reading on 4 October 2017.

On 23 October 2017, the Council (Employment, Social Policy, Health and Consumer Affairs) unanimously adopted the final legislative
On 15 November 2017, the final act was signed by the President of the EP and by the President of the Council. The Directive was published in the Official Journal on 30 November 2017 and entered into force on 20 December 2017. Member States have to transpose the new provisions into their law by 21 December 2019, when they start to apply.

References:

- EP Legislative Observatory, *Procedure file on System of inspections for the safe operation of ro-ro ferry and high-speed passenger craft in regular service*, 2016/0172(COD)
- Directive 2009/16/EC of 23 April 2009 on port State control
- Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services
- European Economic and Social Committee, *Opinion on Ro-ro ferry and high-speed passenger craft in regular service*, 19 October 2016

Further reading:


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As of 20 October 2018
SOLVIT ACTION PLAN / 2017-5

CONTENT

SOLVIT is a free service provided since 2002 by the national administrations in each EU Member State (and Iceland, Liechtenstein and Norway). It deals with the cross-border issues related to the application of EU law in the area of the four freedoms (free movement of persons, goods, services and capital), as well as related policies (e.g. taxation, employment, social policy and transport). It works under short deadlines and delivers solutions to EU/EEA citizens and businesses whenever their EU rights are not recognized by public authorities, particularly while moving or doing business in another Member State. It takes on an average 59 days to handle a case, and SOLVIT resolved 89% of complaints.

On 2 May 2017, the Commission published a ‘Compliance package’ with three proposals: (1) Proposal for establishing a single digital gateway to provide information, procedures, assistance and problem solving services, (2) Proposal for setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas, and (3) Action plan on the Reinforcement of SOLVIT: Bringing the benefits of the Single Market to citizens and businesses.
The SOLVIT Action Plan is part of this package. Its aim is to improve the functioning of the SOLVIT network. Main actions include:

- capacity building (e.g. intensified legal trainings and knowledge sharing) to strengthen its accessibility and its quality;
- awareness raising activities which will ensure that citizens and businesses revert to SOLVIT when experiencing difficulties with cross-border issues. Special focus will be on the web portal Your Europe and the single digital gateway once operational;
- refining data collection so that evidence from SOLVIT cases can be employed to improve the functioning of the Single Market.

Feedback from SOLVIT will be taken on board when designing future Single Market policies and legislation.

The Commission, in cooperation with the SOLVIT Member States, will coordinate activities and regularly report on progress on implementation of the Action Plan through the bi-annual SOLVIT workshops.

In Council, the presentation of the Compliance package by the Commission, as well as an exchange of views, took place in the Working Party on Competitiveness and Growth (Internal Market) at its meeting on 23 May 2017.

On 13 September 2017, the Letter of intent accompanying President Juncker’s 2017 State of the Union speech was published. Swift adoption by the co-legislators of the enforcement (compliance) package is mentioned as one of the initiatives in Priority 4.

Legislative scrutiny of the plan has been carried out during the Internal Market and Consumer Protection Committee (IMCO) meeting of 25 September 2017 and the actions of the plan are being implemented.

References:

- European Parliament, IMCO meeting of 25 September 2017

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As of 20 October 2018
On 9 December 2016, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council on integrated farm statistics and repealing Regulations (EC) No 1166/2008 and (EU) No 1337/2011. The aim of the proposed Regulation is to repeal existing legislation on statistics on farm structures and permanent crops, to create a more coherent, flexible and interlinked system of farm statistics and provide the legislative framework for a programme of farm surveys starting with an agricultural census to run in 2020.

This initiative is part of the regulatory fitness and performance programme (REFIT) and is the first step of the Strategy for Agricultural Statistics 2020 and beyond, that aims at the rationalisation of the European Agricultural Statistics System (EASS) and a more efficient data collection process. Indeed, the conclusions of an evaluation of the EASS carried out by the Commission suggest that although users are quite satisfied with the level of detail and quality of the data, there are areas of the EASS where harmonisation is not sufficient, the burden of data collection is too high and the rigidity of the system does not allow the rapid address of new data needs. The Commission carried out an Impact Assessment which accompanies the proposal and suggests a two-step integration of agricultural statistics by means of two framework regulations, one on Integrated Farm Statistics (IFS) and another one on statistics on Statistics on Agricultural Input/Output (SAIO).

The main element of the IFS proposal is the introduction of a flexible and modular framework of data collection based on:

- A decennial Agricultural Census collecting core structural data from all EU farms,

- Farm Structure Surveys collecting core structural data from a large sample of farms in interim years, and

- ‘Modules’ collecting data on specific topics, such as farm labour or soil management practices, from sub-samples of the farms surveyed for the core data.

The Commission should be empowered to adopt delegated acts to amend the core data, detail the topics for the modules and propose additional data collections on an ad hoc basis to address new data needs. The Commission should also be empowered to adopt implementing acts on the technical specifications required for the data sets and the quality reporting.

As regards the content, the proposal retains the general provisions and core data of the existing legislation, to maintain long time-series for trend analysis, and includes new data, such as environmental data related to the greening of direct payments. Moreover, to
address the issue of more harmonised and coherent data, the proposal put forward a better set-up of current thresholds to exclude consistently non-relevant survey units and a common nomenclature of codes and definitions, with clarification of certain concepts such as of agricultural holdings.

Lastly, to reduce the burden for the respondents and the national bodies running the surveys, the proposal allows and promotes the use of data sources other than statistical surveys, such as administrative data or registers (e.g. cattle or organic farming registers).

The Council Working Party on Statistics discussed the Commission’s proposal in the course of 2017 and reached unanimous agreement on a Presidency text (document 13336/17) at its meeting on 12 October 2017. The Council’s general approach tries to address Member States’ concerns as regards possible increase of the burden following the introduction of new variables through Commission’s implementing acts and ways to reduce response burden and costs by reusing existing data sources.

In the European Parliament’s Committee on Agriculture and Rural Development (AGRI) the rapporteur Viorica Dăncilă (S&D, Romania) presented a draft report at the end of May 2017, proposing a few amendments to the Commission’s proposal, such as collecting information on organic characteristics at more detailed level for certain crops or livestock or additional detailed topics for the ‘Module’ on the environmental aspects of farm management. The AGRI Committee members have tabled further amendments, including the introduction of additional modules (on women in farming, indebtedness of farms and ownership of farms and assets) and variables (e.g. on young farmers and farms related accidents), and some specifications, such as on the use of administrative data for statistical purposes. On 10 October 2017, the Committee Members voted on a total of 112 amendments and 7 compromises put forward by the rapporteur. The draft report with amendments, as well as the negotiating team for the trilogue, was adopted by the Committee with 35 in favour, 2 against and 3 abstention and the Plenary confirmed the rapporteur’s negotiating mandate for the trilogue in the week of 23-26 October.

Three trilogue meetings took place between November 2017 and April 2018. Despite the positive results obtained as from the first meeting in a number of areas, the negotiators could reach an agreement on the outstanding points, namely the rules on data protection and on module and ad hoc data, only at their third conclusive trilogue meeting. In the meanwhile, Gabriela Zoana (S&D, Romania) became the new rapporteur for this file, to replace Viorica Dăncilă (S&D, Romania), following her nomination as Prime Minister of Romania in January 2018. On 8 May 2018, the Committee of Permanent Representatives in the Council reached an agreement on the draft overall compromise package, paving the way for the final approval of the act if the Parliament adopts its position at first reading in the exact form as set out in the compromise package. On 17 May 2018, the AGRI Committee approved in a single vote (with 34 in favour, 3 against and 4 abstention) the result of the first reading agreement resulted from the trilogue meetings. The introduction of data on farm safety, more details on EU farmers (young farmers, shared ownership, etc.) and more organic variables are among the provisions proposed by the Parliament that are part of the final agreement.

On 3 July 2018 the Plenary adopted the text in first reading and instructed its President to forward its position to the Council, the Commission and the national parliaments. On 16 July 2018 the Council adopted the regulation. The final act was signed on 18 July 2018 and published in the Official Journal on 7 August 2018.
References:

- EP Legislative Observatory, Procedure file on integrated farm statistics, 2016/0389(COD)
- Council, Outcome of the Agriculture and Fisheries Council meeting of 16 July 2018

Further reading:

- European Parliament, EPRS, New approach for integrated farm statistics, At a Glance, April 2017
- European Parliament, EPRS, Integrated farm statistics, At a Glance, June 2018

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As of 20 October 2018

HYPERLINK REFERENCES

RAIL TRANSPORT STATISTICS (RECAST)

CONTENT

The European Commission has always attached particular importance to the simplification and clarification of EU legislation to ensure that EU citizens have a clear understanding of EU law and can fully exercise the rights it confers on them. With this in mind, the Commission decided that a legislative text should undergo a codification as soon as ten amendments have been made to its content so that its provisions are understandable.

On 30 June 2017, the Commission proposed a Regulation to recast Regulation (EC) 91/2003 on rail transport statistics, as the latter was substantially amended on several occasions. This new Regulation aims to replace the various acts and modifications to its previous versions, fully preserving its content. At the same time, the proposal introduces a modification referring to data collection (Art. 4.5). The Regulation establishes common rules for the production of rail statistics at EU level. Statistical data on goods, passenger transport and accidents covering all EU railways are necessary with a view to monitoring and developing the common transport policy and transport safety. The proposal states that Member States are responsible for the quality of the statistical data provided, which shall be assessed by Eurostat, the statistical office of the EU.

The European Parliament Committee on Tourism and Transport (TRAN) has been responsible for this file. On 10 July 2017, the EP appointed Karima Delli (Greens/EFA, France) as rapporteur. In its opinion of 21 September 2017, the Consultative working party comprising the legal services of the European Parliament, the Council and the Commission, concluded that the Commission proposal does not comprise any amendments other than those identified as such and that the proposal contains a straightforward codification of the existing legal text. Consequently, on 10 October 2017, the Committee on Legal Affairs of the European Parliament stated that the TRAN Committee could proceed examining the legislative proposal. On 23 November 2017, the TRAN Committee submitted its draft report taking over the Commission proposal.

On 2 February 2018, a silent procedure was launched requesting delegations of the Council Working Party on statistics if they could approve the Commission proposal text by the 9 February 2018; no delegation broke the silent procedure. On 20 February 2018, the European Parliament TRAN Committee voted in favour of the adoption by means of the simplified procedure without amendments to the Commission’s proposal. Subsequently, on 26 February, TRAN Committee recommended the EP adopt its position at first reading.
taking into account the Consultative working party recommendations. The rapporteur stressed the need to provide EU citizens as well as policy makers with relevant information on EU transport policies and investments. On 14 March 2018, the EP adopted its position at first reading and instructed its President to forward it further to the Council, the Commission and the national parliaments.

On 12 April 2018, the Council adopted the proposal. As the final act of the regulation was signed on 18 April 2018, the legislative procedure was completed. The recasted regulation was published in the Official Journal of the European Union on 2 May 2018 and entered into force on the 22 May 2018.

References:

- EP Legislative Observatory, Procedure file on rail transport statistics (recast), 2017/0146(COD)
- Council, Progress report on the proposal for a European Parliament and Council Regulation on rail transport statistics (recast), 6158/18
- Council, Progress report on the proposal for a European Parliament and Council Regulation on rail transport statistics (recast), PE-CONS 8/1/18 REV 1- Lex 1798

Further reading:


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As of 20 October 2018
GROUNDHANDLING SERVICES IN AIRPORTS

CONTENT

WITHDRAWN by the European Commission


The proposal aimed to enhance the efficiency and overall quality of groundhandling services for users (airlines) and end-users (passengers and freight forwarders) at EU airports. Although the Council adopted a general approach on the proposal in March 2012, and the EP adopted its first reading position in April 2013, with no agreement in sight the proposal was withdrawn by the Commission in March 2015.

In its legislative resolution of April 2013 (Rapporteur Artur Zasada) on this eventually withdrawn proposal, the EP notably underlined that as free market access is the norm in Union transport policy, the complete liberalisation of the groundhandling market should be the ultimate goal and enhancing the quality of groundhandling services the ultimate aim. It reinforced the social and safety provisions, asking for an adequate level of social protection, as well as decent working conditions for the staff of groundhandling undertakings, including in the case of subcontracting and service contracts, and for minimum safety standards for ground handling services. It also underlined that the Regulation should be applied in conformity with Regulation (EC) No 1107/2006 concerning the rights of disabled
persons and persons with reduced mobility when travelling by air.
Due to the lack of agreement in the Council on the file, the European Commission considered that an agreement is not foreseeable and withdrew its proposal on 7 March 2015.

References:

- EP Legislative Observatory, *Procedure file on the Regulation on groundhandling services at Union airports*, 2011/0397(COD)

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As of 20 October 2018

The proposal defined a number of basic principles that the airport operators would have to respect when determining their security charges. These included non-discrimination, consultation and remedy, transparency and cost-relatedness (revenues from security charges should be used to meet security costs).

At present, systems for the recovery of aviation security costs are regulated at Member State level and are not always transparent to the users. Users are not systematically consulted before charges are determined or before a charging system is modified.

The proposal would have set common principles for the levying of security charges at EU airports and applied to any airport located in an EU territory subject to the provisions of the Treaty. However, it did not apply to the charges collected for the remuneration of en-route and terminal air navigation services, or to the charges collected for the remuneration of ground-handling services.

The European Parliament adopted its first reading position on the file on 5 May 2010 (rapporteur: Jörg Leichtfried, S&D, AT) in which it defended the view that that security charges should only cover security costs, and that measures going beyond basic EU requirements - such as body scanners - should be paid for by Member States, rather than airlines or passengers.

The EP also clarified the provisions regarding the provision of information concerning the setting of security charges, added some definitions (e.g. definition of ‘airport network’, ‘competent body’ and ‘aviation security’) as well as a separate article on airport network. In this article, it stipulated that Member States may allow the competent body of an airport network to introduce a common and transparent charging system for security charges to cover the airport network. The EP also added a separate article on common charging system, stating that Member States may allow the competent body to apply a common and transparent charging system at airports serving the same city or conurbation.

Since many EU governments were opposed to a directive on aviation security charges that would require public financing of security charges, the Commission decided on 7 March 2015 to withdraw the proposal.

References:

- European Parliament, Legislative resolution of 5 May 2010 on the proposal for a directive on aviation security charges, 2009/0063(COD)
- European Commision, List of withdrawn proposals, OJ C 80, 7.3.2015, p. 17–23

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As of 20 October 2018

CONTENT

WITHDRAWN by the European Commission


The directive sought to ensure the proper functioning and development of the internal market of high resolution satellite data for commercial purposes by establishing a transparent, fair and consistent legal framework across Member States. The objective of the Commission was to address the fragmentation of the regulatory framework across Europe on this aspect.

This proposal would have applied to the dissemination of Earth observation data generated by Earth observation systems. In a preliminary working document, the rapporteurs Constanze Krehl (ITRE, S&D) and Jens Nilsson (IMCO, S&D) noted that the barriers to be removed in the single market were not well defined in the proposal. They considered that a better balance should be achieved in the proposal between national security concerns and commercial and strategic interests. They also stressed the need to provide particular attention to the dissemination of high resolution satellite data from third countries. However, the Commission withdrew its proposal on 1 July 2015, before the ITRE and IMCO Committee or the Parliament could adopt a position on the file. This had been anticipated in the Commission 2015 Work Programme as the Council and European Parliament seemed to present diverging opinions on the topic.

The Commission had already noted in its Communication on the EU Space Industrial Policy from February 2013 that this topic raised three issues: the security restrictions imposed by national authorities; the security threat that inadvertent release of data could pose to
the EU and the Member States; and the cross-border nature of data exchanges requiring cooperation between the Member States. The Commission announced following the withdrawal of the proposal that a new proposal was to be submitted in 2016. However, no such proposal was announced in the Commission 2016 Work Programme nor has been put forward since. The Commission adopted in October 2016 a new space strategy for Europe. One priority of the strategy is the uptake of space data from the European programmes (Galileo for satellite navigation and Copernicus for earth observation) for commercial purposes. The Commission proposes to set up platform services for the dissemination of space data and makes no mention of a new directive on this topic.

References:

- European Commission, Communication on the EU Space Industrial Policy, COM(2013) 108
- European Commission, Communication on a space strategy for Europe, COM(2016) 705

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As of 20 October 2018
SINGLE MARKET: SIMPLIFYING THE TRANSFER OF MOTOR VEHICLES REGISTERED IN ANOTHER MEMBER STATE

CONTENT

WITHDRAWN by the European Commission

The European Commission notes that the obligation to register a motor vehicle registered in another Member State has been a source of complaints and court cases for many years. The Commission highlights two main problems:

- Citizens who move to another Member State, cross-border workers or car-rental companies are often obliged to register their vehicle on the territory where they live or where the vehicle is used, although the motor vehicle is already registered in another Member State. This is can be a problem for citizens living part of the year in one Member State and the other part in another, as well as for cross-border commuters who use, in their own Member State, a motor vehicle registered by their employer in another Member State.
- The formalities of re-registration for a motor vehicle being transferred from one Member State to another are often burdensome and lengthy.

In its 2010 EU Citizenship Report “Dismantling the obstacles to EU citizens rights”, the Commission identified vehicle registration problems as one of the main obstacles faced by citizens when exercising their rights under EU law in their daily lives. In its opinion of 11 March 2011, the High Level Group of Independent Stakeholders on administrative burdens supported a possible Commission initiative to simplify registration conditions and formalities.

To address these issues and improve the functioning of the single market, the European Commission published on 4 April 2012 a proposal for a regulation on simplifying the transfer of motor vehicles registered in another Member State. The operational objectives of this proposal include: to determine in which Member State a motor vehicle transferred between Member States should be registered; to reduce the time of re-registration procedures; to reduce the administrative burden on citizens and companies by limiting the number of documents necessary to carry out the re-registration procedure and by facilitating data exchange between national registration authorities.
In the European Parliament, the Committee on the Internal Market and Consumer Protection (IMCO) adopted its report on 9 July 2013. The report amends the Commission proposal to set a 3-month deadline for re-registering a car in a new country and require EU Member States to recognise each other's roadworthiness tests. From three years after entry into force, Member States should enable online applications for re-registration. Member States should have the option of requiring civil liability insurance as a precondition of vehicle registration.

An informal exploratory meeting with the Commission and Council was held on 18 September 2013. A first trilogue with the Council took place (prior to adoption of the mandate) on 21 January 2014. On 31 January 2014, COREPER asked the Commission to carry out an impact assessment on taxation, to be submitted within six months. After a debate in plenary on 15 April 2014, Parliament decided to refer the report back to the committee according to Rule 188(2). On 21 January 2015 the Commission presented a non-paper on possible impacts on tax revenues of Member States.

On 24 February 2015, the IMCO committee adopted a second report containing a revised set of amendments. The update consisted of the deletion of controversial amendments on car plates' tags and colour, where the possibility of equipping vehicles with identification tags and number plates in common colours was proposed.

As the Council could not agree on a common position, the Commission considered an agreement was not foreseeable. It announced in its 2018 Work Programme its intention to withdraw the proposal to reassess the issue, including by launching an update of the impact assessment. The Commission officially withdrew its proposal on 3 July 2018.

References:

- EP Legislative Observatory, Procedure file of Regulation on Single Market: simplifying the transfer of motor vehicles registered in another Member State, 2012/0082(COD)
- European Commission, Daily News, Press release, 3 July 2018
- European Commission, Withdrawal of Commission proposals, OJ C 233

Further reading:


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CONTENT

WITHDRAWN by the European Commission

The aim of the regulation on aerodromes, air traffic management and air navigation services: simplifying and clarifying the legal framework is to adapt the structure of the European Aviation Safety Agency (EASA) for a better implementation of its new tasks and to harmonise Regulation (EC) No 216/2008 with the Single European Sky (SES2+) legal framework. It also seeks to harmonise the content of Regulation (EC) No 216/2008 on common rules in the area of civil aviation and establishing a European Agency for Aviation Safety with that of four regulations in regard to the Single European Sky (SES).

The development of the EASA framework is intertwined with the development of the SES initiative, the recast of which is currently the subject of a proposal. In 2009, Regulation (EC) No 1108/2009 extended the competences of EASA to include air traffic management and air navigation services (ATM/ANS). Whilst this also implied the incorporation of various ATM/ANS technical regulation elements into the scope of EASA, the corresponding changes to the four SES were not completed simultaneously.

Secondly, there is a more general mismatch between the approach used for all other sectors of aviation (airworthiness, crew licensing, air operations etc.) in the EASA framework and air traffic management (ATM/ANS). The Commission recommends introducing a harmonised approach towards this important regulatory area, so that all consultations are conducted with the same thoroughness, all
rules fit in the same structure and serve the same objectives, making life easier for those responsible for applying the rules and finally to ensure that the impending wave of technological innovations stemming from the Single European Sky ATM Research (SESAR) initiative can be implemented in a co-ordinated manner in both airborne and ground equipage and procedures.

This proposed regulation aims to fulfil the requirement of Article 65a, by deleting the overlaps between the SES and EASA Regulations and simplifying and clarifying the border line between EASA and SES legal frameworks. The amendment also supports the political objective of ensuring clarity of tasks between the Commission, EASA and the Eurocontrol organisation.

The legislative proposal has been published by the Commission on 11 June 2013. On 12 March 2014 the EP adopted it in its single reading procedure. The EP supported the proposed changes aimed at clarifying the division of tasks between the European Commission, the European Aviation Safety Agency and Eurocontrol. It notably underlined the role of EASA in terms of promoting Union aviation standards and rules at international level by establishing the appropriate cooperation with third countries and international organisations, thereby promoting the movement of the Union's aeronautical products, professionals and services with a view to facilitating their access to new growing markets worldwide. The EP also wished to ensure openness and transparency for every Member State when decisions are taken at the EASA Management Board. It notably requested that the EASA Executive Director shall, before appointment, make a statement before the competent committee of the EP and answer questions put by its members. Mid-term, the Commission shall draw up a report evaluating the Executive Director's performance and the Agency's future tasks and challenges. The evaluation report will be presented to the competent EP committee.

The EP introduced an amendment relating to conflicts of interest, according to which the Executive Director and officials seconded by Member States and the Commission on a temporary basis shall make a declaration of commitments and a declaration of interests indicating the absence of any direct or indirect interests, which might be considered prejudicial to their independence. The Management Board shall implement a policy to manage and avoid conflicts of interest.

The legislative process remains blocked in the Council, pending resolution of the disputed question over Gibraltar's status. At the December 2014 Transport Council, Member States agreed to focus only on the article of the proposal relating the SES recast, considering that core issues such as EASA's role and status, would be tackled separately within the context of the review of the EASA Regulation (2015/0277(COD), now nearly completed (see related file).

In its ‘Aviation Strategy for Europe’ the European Commission urged the Council and the European Parliament to adopt the SES2+ proposals including this one, in order to ensure the effectiveness of functional airspace blocks and network functions and the swift implementation of the EU-wide targets for the performance scheme based on a fully independent performance review body. The 2018 Commission Work Programme indicated finally that the proposed regulation would be withdrawn as its content was subsumed into the comprehensive review of the EASA Regulation (2015/0277(COD). The proposal was finally withdrawn on 3 July 2018.

References:

- EP Legislative Observatory, Procedure file on Regulation amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services, 2013/0187(COD)
- European Parliament, Legislative resolution of 12 March 2014 on the proposal for a regulation of the European Parliament and
of the Council amending Regulation (EC) No 216/2008 in the field of aerodromes, air traffic management and air navigation services, 2013/0187(COD)

- EP Legislative Observatory, Procedure file on Regulation on Common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, 2015/0277(COD)

- European Commission, Daily News, Press release, 3 July 2018
- European Commission, Withdrawal of Commission proposals, OJ C 233

Further reading:

- European Parliament, EPRS, Single European Sky, Briefing, April 2015

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As of 20 October 2018

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HYPERLINK REFERENCES

4TH RAILWAY PACKAGE

CONTENT

The fourth railway package was proposed by the Commission in January 2013. This is the latest in a series of reforms over the past 15 years that have led to deep-seated changes in the rail sector aimed at improving the quality of services, cutting their cost and creating greater interoperability within the European railway area, while provoking a radical rethink of public monopolies in the rail sector. Spurred on by the EU, European railway companies have gradually opened up to competition. Freight transport has been fully liberalised since 2007 and passenger transport has been partially opened up (for international connections only) since 2010.

With the fourth railway package, the Commission wants to take the process a step further. It proposes that, by December 2019, rail companies must be granted access to domestic passenger services in all EU Member States. In addition, it requires the functions of owning/operating the infrastructure to be separated from that of providing train services to customers, whether through institutional separation, or through a vertically integrated (holding) company, to ensure the necessary legal, financial and operational separation.

Furthermore, public service contracts will no longer be excluded from competitive tendering. Direct award of public service contracts will still be possible, on condition that rail operators comply with performance criteria, such as service punctuality and customer satisfaction. Lastly, the procedure for vehicle authorisation and certification, from now on to be done on EU-wide scale by the European Railway Agency (as ‘a one stop shop’), would be simplified, cutting costs and shortening administrative deadlines.

The fourth railway package aims to create a truly integrated European Railway Area, removing the remaining institutional, legal and technical obstacles.

The legislative process on technical proposals (known as the “technical pillar”) did not present insuperable difficulties and the measures were adopted in April 2016. Negotiations on the liberalisation of rail markets and governance structures (known as the “market pillar”) proved more complex. After a provisional agreement reached by the Parliament and the Council in April 2016, the European Parliament adopted it at its plenary session in December 2016 (second reading), to confirm the agreement.

Once implemented, the fourth railway package is expected to give a new impetus to rail services across the EU, support economic growth and contribute to meeting the objectives of the Commission’s 2011 White Paper on Transport.

Further reading:
Aviation plays a crucial role for delivering on the priorities of the Juncker Commission and wider strategic policy priorities of the EU. It directly employs between 1.4 and 2 million people in Europe and contributes more than €110 billion to Europe’s gross domestic product. The global landscape of aviation is changing rapidly, thereby creating challenges but also opportunities for the EU’s aviation sector.

On 7 December 2015, the European Commission adopted an Aviation Strategy for Europe, which outlines Commission’s legislative and non-legislative actions in the domain until 2018 and aims to make the EU aviation sector more competitive, sustainable and innovative. The Commission has identified three key priorities:

- Tapping into growth markets, by improving services, market access and investment opportunities with third countries, whilst guaranteeing a level playing field;
- Tackling limits to growth in the air and on the ground, by reducing capacity constraints and improving efficiency and connectivity;
- Maintaining high EU safety and security standards, by shifting to a risk and performance based mind-set.
The Commission asked in the strategy the Council a permission to negotiate EU-level comprehensive aviation agreements with EU's major trading partners: China, Association of Southeast Asian Nations, Turkey, Saudi Arabia, Bahrain, United Arab Emirates, Kuwait, Qatar, Oman, Mexico and Armenia. The strategy also called to sign bilateral aviation safety agreements with China and Japan and launched new aviation dialogues with countries such as India.

The Commission urged the Council and the European Parliament to unblock pending aviation files such as the Single European Sky package, revised rules on slots and air passenger rights. In June 2016, the Commission published interpretative guidelines on existing rules on passenger rights.

Despite the European Parliament's concern about the increase in socially problematic business practices such as ‘flags of convenience’ and the use of atypical forms of employment such as bogus self-employment, pay-to-fly schemes and zero-hours contracts (see resolution adopted on 11 November 2015), the Commission did not present any new legislative proposal in the labour and social domains, but encouraged social dialogue and analysis of the situation. In order to help to interpret current rules, the Commission published in May 2016 a practice guide on ‘Jurisdiction and applicable law in international disputes between the employee and the employer’. It also plans to address social and labour questions when negotiating comprehensive aviation agreements with third countries.

Together with the aviation strategy, the Commission presented in December 2015 a legislative proposal on civil aviation safety and the mandate of the European Aviation Safety Agency (EASA), which repeals the former EASA's Basic Regulation. The legislative proposal also introduces basic rules on drones. The European Parliament and the Council have approved the new safety rules and they are now in force.

On 8 June 2017, the Commission adopted the ‘Aviation: Open and Connected Europe’ package delivering the Aviation Strategy for Europe on two core priorities. The set of measures presented consists in four initiatives:

- A legislative proposal for a regulation on safeguarding competition in air transport, repealing Regulation 868/2004
- Interpretative guidelines on ownership and control of EU air carriers
- Interpretative guidelines on public services obligations
- Practices facilitating Air Traffic Management Service Continuity.

While the legislative proposal aims to ensure fair competition between Union air carriers and third country air carriers (see relevant file), the three other initiatives are non-binding.

The Commission also adopted a Communication on ‘Aviation: Open and Connected Europe’ that presents the framework of these initiatives, putting them into perspective. The package was presented at the June 2017 Transport, Telecommunications and Energy Council.

In the European Parliament, the file was assigned to the Committee on Transport and Tourism (TRAN) (rapporteur: Pavel Telička, ALDE, CZ). The Committee on Transport and Tourism (TRAN) adopted an own-initiative report on 26 January 2017 and Parliament completed the procedure on 16 February 2017 when it adopted a resolution on an aviation strategy for Europe. The resolution underlined the key principles upon which future actions of the European Parliament in the area of aviation should be based. It notably
welcomed the efforts to identify sources for boosting the aviation sector by finding new market opportunities and dismantling barriers; underlined that a ‘further holistic and more ambitious approach should be embraced in order to provide the necessary boost for a sustainable and competitive European aviation industry’; pointed out that ‘safety is a guiding principle for the European Aviation Strategy’ and urged the Council and the Member States to make swift progress on other essential deadlocked dossiers.

The Transport, Telecommunications and Energy Council held a discussion on the file on 7 June 2016, during which the Member States highlighted the importance of promoting global as well as intra-EU connectivity.

References

- European Commission, Communication on An Aviation Strategy for Europe, COM/2015/0598
- European Commission, Interpretative guidelines on Regulation 261/2004 and Regulation 2027/97 (air passenger rights), C(2016) 3502
- European Commission, Communication on Aviation: Open and Connected Europe, COM(2017) 286
- EP legislative Observatory, Procedure file 2016/2062(INI) on an aviation strategy for Europe, 2016/2062(INI)
UPGRADING THE SINGLE MARKET STRATEGY / UP TO €120BN

CONTENT

The Commission Work Programme indicates a renewed and integrated approach to the Single Market.

Mutual recognition and standardisation in key sectors are at the core of the Strategy. Further integration and improvement of sectors where the economic potential is the biggest will contribute to further enhancing industrial strength and productive capacity of the EU: construction, advanced manufacturing and combined provision of goods and services will be specifically focussed upon.

In the field of services, business services and retail regulated professions are selected as those with the largest unexploited economic potential.

After the Single Market Act II process that started in 2012, this strategy is likely to be the most ambitious attempt to defend and deepen the Single Market. The removal of technical and other non-tariff barriers, especially present in the field of movement of goods, could boost intra-EU trade by up to 7% annually. The EP estimates potential gains at €183 billion to €279 billion per year. As for the free movement of services, deepening of the Single Market would bring gains of 0.3% - 1.5% of the EU GDP (around €120 billion on average). The actions to be undertaken are mainly included in Single Market Act II; the key issue is their full implementation, including the Services Directive.

SMEs, being the backbone of the European economy, are given particular attention. Further support for investment in infrastructure, improvement of the regulatory and innovation environment are the most important elements of the Strategy with regard to SMEs, also with the support of the Horizon 2020 Programme.


The Strategy, encompassing legislative and non-legislative proposals, focusses on the need for Single Market to be revived and modernised with the aim of improving the functioning of the market for products and services and guaranteeing appropriate protection for people.
It incorporates practical measures helping SMEs and start-ups to grow and expand, promoting innovation, unlocking investments and empowering consumers. These measures complement a number of sectoral initiatives.

For the sake of having a complete view of the actions proposed by the Commission, here is the list of non-legislative initiatives which will not be followed in detail within the Legislative Trains Schedule. They are grouped under three main pillars of the strategy.

- **Creating opportunities for consumers, professionals and businesses;**
  - Guidance on how EU legislation applies to collaborative economy business models
  - Start-up initiative
  - Guidance on reforms in regulation of professions
  - Guidance on reviewing or adding regulation of professions
  - Communication on best practices in retail sector

- **Encouraging and enabling the modernisation and innovation that Europe needs:**
  - Joint initiative on standardisation
  - Guidance on service standardisation
  - Public procurement: voluntary ex ante assessment mechanism for large infrastructure projects
  - Public procurement: contract registers, data collection and networking of review bodies
  - Improvement of the patent system (pharmaceuticals)

- **Ensuring practical delivery that benefits consumers and businesses in their daily lives:**
  - Data analytics tool for monitoring Single Market legislation
  - Set of actions to enhance efforts to keep non-compliant products from the EU market
  - Strengthening and streaming of the SOLVIT

The EP resolution on the Single Market Strategy is primarily a response to the Commission Communication on upgrading the Single Market, taking into account other Commission documents published in the package, and the recommendations of the Employment and Social Affairs Committee (EMPL), which delivered its opinion to the Committee on the Internal Market and Consumer Protection (IMCO). The committee’s report mentions an anticipated trillion euro gain from completing the Single Market, with the market’s fragmentation being identified as a major obstacle to higher structural economic growth. It supports the overall objectives of the Commission’s Strategy and recognises its potential to help achieve economic prosperity, increase competitiveness and secure sustainable growth and new jobs, while also improving the wellbeing of Europeans. The resolution was voted by the EP on 26 May 2016.

**References:**

Further reading:

• European Parliament, EPRS, A deeper and fairer Single Market: new opportunities for business and people, Briefing, December 2015

LEGISLATIVE FILE(S) INCLUDED

- DIGITAL TECHNOLOGIES IN COMPANY LAW
- REVIEW OF EU IP ENFORCEMENT FRAMEWORK
- ACTION PLAN TO INCREASE AWARENESS OF THE MUTUAL RECOGNITION PRINCIPLE
- REVISION OF MUTUAL RECOGNITION REGULATION

SERVICES PACKAGE

CONTENT

The Single Market Strategy, which aims to help unlock the full potential of the single market, outlines a set of measures for improving the opportunities for businesses and professionals to move across borders. There are more than 5000 professions across the Member States which require specific qualifications or for which a professional title is used. Legal forms or shareholding requirements can restrict market access for services providers who would like to offer their services in another Member State. The Commission’s intent is to put forward specific measures that will help each Member State improve its rules.

In 2016 the European Professional Card (EPC) was made available for five professions (general care nurses, physiotherapists, pharmacists, real estate agents and mountain guides), with the intention to include further professions in the future. The aim of this card, which is not a physical one, is to facilitate the digital communication between professionals and the relevant authorities, but it does not replace the established recognition procedures.

The Commission plans were to propose legislative measures to curb regulatory barriers covering such areas as differences in legal form and shareholder requirements, multidisciplinary restrictions and, possibly, organisational requirements at construction companies. Insurance requirements may also come under scrutiny. Furthermore, the Commission planned to introduce a «services passport».

Before taking any legislative or non-legislative action, the Commission launched a public consultation, which lasted from 2 May 2016 to 26 July 2016. Very broad in scope, the consultation was subdivided into a number of fields, the most important of which were business services, construction services, insurance as well as the services sector in general (other than business services and construction services).

On 10 January 2017, the Commission made three legislative proposals and published a communication. The proposal for a new
European services e-card (formerly referred to as ‘services passport’) provides for a simplified electronic procedure for completing administrative formalities when intending to provide services abroad. A service provider would be in contact with an interlocutor in his home country, and this interlocutor would then check the necessary data before transmitting it to the host Member State. The latter will decide if, and under which conditions, services may be provided. The proposal on proportionality assessment of national rules on professional services aims to ensure that Member States undertake a comprehensive and transparent proportionality test prior to setting national rules on professional services. The proposal on improved notification of draft national laws on services intends to allow both European authorities and Member States to raise potential concerns about legal incompatibilities between EU and national law at an early stage of national law making. A communication provides guidance for national reforms in regulation of professions, with the aim of opening up the services markets. The professions concerned are architects, engineers, lawyers, accountants, patent agents, real estate agents and tourist guides.

On 13 September 2017, the Letter of intent accompanying President Juncker’s 2017 State of the Union speech was published. ‘Swift adoption by the co-legislators of the services and the enforcement packages’ is mentioned as one of the initiatives in Priority 4. The dossiers on the proportionality test was completed successfully in June 2018, while the legislative process for the two other dossiers is still ongoing (see separate carriages).

On 12 September 2018, in the Letter of intent accompanying President Juncker’s 2018 State of the Union speech, the adoption by the co-legislators of the remaining Single Market Strategy proposals, notably the services and goods packages, was again listed among the initiatives for delivery before the European Parliament elections in 2019.

References:

- EP Legislative Observatory, Procedure file on Legal and operational framework of the European services e-card, 2016/0402(COD)
- EP Legislative Observatory, Procedure file on Proportionality test before adoption of new regulation of professions, 2016/0404(COD)
- EP Legislative Observatory, Procedure file on Services in the internal market: notification procedure for authorisation schemes and requirements related to services, 2016/0398(COD)
- European Commission, Proposal for a legal and operational framework of the European services e-card, COM(2016) 824
- European Commission, Proposal for a proportionality test before adoption of new regulation of professions, COM(2016) 822
- European Commission, Proposal on notification procedure for authorisation schemes and requirements related to services, COM(2016) 821
- European Commission, Communication on reform recommendations for regulation in professional services, COM(2016) 820
- European Commission, European Single Market, website

Further reading:


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REVIEW OF PASSENGER SHIP SAFETY

CONTENT

Ensuring the safety of passengers at sea is of crucial importance and as such, requires a clear set of rules, which can be efficiently enforced with help of modern technology. To identify gaps, overlaps and obsolete measures in the existing rules, the European Commission, in line with its Regulatory Fitness and Performance Programme (REFIT) and the Better Regulation agenda, evaluated the existing EU legislation on passenger ships safety. As a follow-up, it presented three proposals for directives, with the overall aim to simplify the rules and cut administrative costs, while at the same time making travelling by sea safer.

One proposal concerns safety rules for passenger ships in general, a second one modifies requirements on registration of passengers boarding ships, adapting them to the digital age. Finally, the third proposal seeks to simplify inspections of ferries transporting wheeled cargo and high-speed passenger craft.

The main changes proposed in the package concern:

• clarifying that ships built in aluminium have to be certified and meet fire safety requirements (Directive 2009/45/EC)
• excluding ships below 24 metres, offshore service vessels and traditional ships from the scope (of the Directive 2009/45/EC)
• simplifying the definition of sea areas (Directive 2009/45/EC)
• introducing requirements on digital registration of passenger data through National Single Window (established by Directive 2010/65/EU), to facilitate search and rescue operations (Directive 98/41/EC). There is flexibility for operators on shorter voyages.
• removing overlaps between specific surveys (Directive 1999/35/EC), the port State control inspections and the annual flag State surveys, to reduce administrative burden
• aligning the directives with the changes brought about by the TFEU as regards the powers of the Commission to adopt delegated and implementing acts.

The European Parliament has long been the driving force behind many improvements to the EU maritime safety regime. While
recognising its preference for shipping agreements to be concluded at a global scale at the International Maritime Organization (IMO), Parliament fully supports the Union’s role in the transposition of international rules into EU law, as well as the strengthening of European Maritime Safety Agency’s role (EMSA). In its resolution of 9 September 2015 on the implementation of the 2011 white paper on transport, the Parliament specifically called for a legislative proposal to modernise passenger ship safety legislation.

The Parliament has tasked the Committee on Transport and Tourism (TRAN) to prepare a report for each of the three new proposal and named three rapporteurs.

On 14 and 15 June 2017, inter-institutional negotiations on the three proposals concluded. The compromise texts were adopted by the EP in 1st reading on 4 October 2017 and by the Council (Employment, Social Policy, Health and Consumer Affairs) on 23 October 2017. The final acts were signed by the President of the EP and by the President of the Council and published in the Official Journal.

For more detail on the three proposals, see their individual files below.

References


The proposals stemming from the Commission REFIT exercise:


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Safety rules and standards for passenger ships
Registration of persons sailing on board passenger ships
Inspections of ro-ro ferries and passenger craft

**COMPLIANCE PACKAGE**

**CONTENT**

Since the introduction of the Single Market, EU citizens can benefit from common rules that apply throughout the Union. However, in some areas these benefits are slower to show, because rules are not known or implemented, or they are undermined by other barriers. The Commission decided to take steps to enhance the practical functioning of the Single Market. On 2 May 2017 it published a package of measures which should help develop a culture of compliance, i.e. ensure that commonly agreed EU rules are respected. They should also make it easier for people and companies to manage their paperwork online in their home country or when working, living or doing business in another EU country, by enabling full access to online information and procedures both in their home country and abroad.

This ‘Compliance package’ consists of three initiatives:

- **Single Digital Gateway proposal**
  (Proposal for establishing a single digital gateway to provide information, procedures, assistance and problem solving services)
  The Single Digital Gateway will be a central, online and easily accessible entry point for people and companies looking for complete, accurate and up-to-date information, administrative procedures and assistance services linked to their Single Market rights.

- **SMIT proposal (Single Market Information Tool)**
  (Proposal for setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas)
  The Single Market Information Tool (SMIT) will allow the Commission to obtain, in clearly framed cases, timely, comprehensive and reliable quantitative and qualitative information from selected market players in specific instances, and as a last resort, where there are indications of serious difficulties with the application of EU Single Market legislation.

- **SOLVIT Action Plan**
  (Action plan on the Reinforcement of SOLVIT: Bringing the benefits of the Single Market to citizens and businesses)
  SOLVIT is a free of charge service provided collaboratively since 2002 by the national administrations. It provides rapid solutions to citizens and businesses when they are experiencing difficulties while moving or doing cross-border business in the EU. It is a faster,
informal alternative to filing a court case, submitting a formal complaint to the Commission or putting forward a petition. The Commission is presenting an Action Plan to reinforce SOLVIT and help even more people and businesses benefit from this service.

On 13 September 2017, the Letter of intent accompanying President Juncker’s 2017 State of the Union speech was published, where swift adoption by the co-legislators of the enforcement (compliance) package is mentioned as one of the priorities. Currently, work in Parliament and Council on the proposal on SMIT is ongoing. For the Single Digital Gateway proposal, the two institutions are conducting interinstitutional negotiations (trilogues) in view of achieving a first reading agreement. As for the SOLVIT Action Plan, legislative scrutiny has been carried out in Parliament’s Internal Market and Consumer Protection Committee (IMCO) and the actions of the plan are being implemented.

On 12 September 2018, in the Letter of intent accompanying President Juncker’s 2018 State of the Union speech, the adoption by the co-legislators of the remaining Single Market Strategy proposals was again listed among priority initiatives for delivery before the European Parliament elections in 2019.

References:

- European Commission, Compliance Package, website
- EP Legislative Observatory, Procedure file on the single digital gateway, 2017/0086(COD)
- European Commission, Proposal for a regulation on establishing a single digital gateway to provide information, procedures, assistance and problem solving services, COM(2017) 256; accompanying documents
- EP Legislative Observatory, Procedure file on Conditions and procedure by which the Commission may request undertakings to provide information in relation to the internal market, 2017/0087(COD)
- European Commission, Proposal for setting out the conditions and procedure by which the Commission may request undertakings and associations of undertakings to provide information in relation to the internal market and related areas, COM(2017) 257 and accompanying documents
- EP Legislative Observatory, Procedure file on Action plan on the reinforcement of SOLVIT: bringing the benefits of the single market to citizens and businesses

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