

BAG-SPNV Position Paper on the European Commission proposal for a directive establishing a single European railway area (Recast)

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European Passenger Rail Authorities strongly support the concern of the European Commission to **strengthen rail transport and make it more competitive**. However, we believe that there is some room for improvement.

1. Scope of the Directive

Even though the situation of small and medium-sized railway undertakings should be taken into account, we do not consider a general exception for regional services as appropriate. We therefore **support amendment 254 of Ms Wils**.

2. Unbundling between Infrastructure Manager and Railway Undertakings

Market opening of the railway sector in Europe (started in 1991) has been a large step forward for the development of rail transport in the European Union. In many countries competition has improved the quality of service and, at the same time, decreased the level of subsidies. Between 1996 and 2008 German regional passenger rail authorities, for instance, have had the chance to increase the level of train kilometres by 17 %. As a consequence of the improved offer, the number of passengers has increased by 44% over the same period.

However, the European railway market is still not fully opened for non incumbent railway undertakings. The main reason for this is that infrastructure managers, service providers and incumbent railway undertakings are still linked with each other in many countries. Competition between market players is therefore distorted.

European Passenger Rail Authorities request a more rigorous implementation of the separation of infrastructure managers and railway undertakings. Commissioner Kallas undertook to launch a legislative initiative in this sense by the end of 2012 and we very much look forward to a strong proposal. As negotiations in the Parliament are stalled on this aspect, we are willing to **support the amendments that will guarantee the strictest separation** between IM and RUs from a financial, legal, organisational, functional and decision-making aspect. Annex Ia should therefore be adopted to build Chinese Walls between IM and RUs.

3. Access to Rail Related Services

Essential facilities should also be provided in a non-discriminatory way. We therefore insist that article 13 should still refer to the necessary **legal independence** between the operator of the service and the RU that holds a dominant position.

The European Passenger Rail Authorities also support the “use-it-or-lose-it” principle as it appears in compromise D on article 13.

4. A strong and independent regulatory body

The resources and independence of the regulatory bodies are limited in many countries. This precludes effective monitoring of compliance with railway legislation and with non-discriminatory access to the market. The priority should therefore be to strengthen national regulatory bodies and their cooperation. The issue of a European Regulatory Body can be dealt with at a later stage.

The European Passenger Rail Authorities **support the compromises on articles 55 to 57a**. We insist that article 56.3.d should be interpreted as an obligation for Regulatory Bodies to consult Regional rail authorities at least once a year, to take into account their views on the market (performance, charges, transparency of prices).

Private operators and even some incumbents have substantial problems with the fact that National Safety Authorities do NOT coordinate and benchmark their national measures and that no institution or public body challenges or questions the measures adopted by the NSAs (despite the obligation for Member States to organise the judicial review of these measures).

Therefore, the European Passenger Rail Authorities **support in particular compromise K that allows for a control of the decisions of NSAs by national regulatory bodies**.

5. Infrastructure financing

Other important objectives of the Commission - for instance the development of an efficient rail infrastructure and the creation of an integrated network and interoperable equipment - are impeded by the **poor financial architecture** of railway infrastructure, which prevents or at least delays an expansion according to demand.

Member States should guarantee long term adequate financing via Multi-Annual Contracts (MAC). Moreover, regional authorities should be consulted on the infrastructure development strategy. We therefore **support Compromise C on article 8.1 or amendment 341 of Ms Bilbao**. We also **support compromise G on article 30.2 that sets the minimum period of a MAC at 7 years**.

6. Charging

a. Direct costs

Costs and charges need to be totally transparent. This applies to the definition of direct costs and to the content of the Network Statement. We support the efforts of the Commission and the Parliament to clarify these (compromises on article 30 to 32 and Annex VIII). For instance, we appreciate the proposal of Mr Zile to list market segments in the network statement (Compromise I on article 32.1).

The **high and non-transparent infrastructure charges** in many countries of the EU place rail transport at a disadvantage in relation to road-based traffic and prevent more traffic on railways, in particular on long distance connections.

b. Noise charging

The objectives of the European Commission to strengthen rail transport and to make it more competitive cannot be realised as long as **competition with other modes of transport** is distorted. In particular, we consider the compulsory payment of road infrastructure costs and the internalisation of external costs for all modes of transport as urgently needed¹. In the meantime, we **agree with compromise H on article 31.5** that warns against further distortion of competition.

c. Performance schemes

We consider that performance schemes are a good tool to monitor, but also incentivise a better reliability of rail transport. They should be taken more seriously. We therefore insist on keeping Annex VIII.4. a, b, g and h. These paragraphs were aimed at setting clear parameters for performance schemes and at controlling their output.

7. Monitoring tasks of the Commission

As major actors of rail passenger transport, regional rail authorities should be involved in the market monitoring undertaken by the Commission. We **support compromise F on article 15.2**. This is all the more important as article 15.5.a rightfully requests Member States to supply data on the evolution of rail transport performance and compensation for Public Service Obligations.

¹ For more details, please refer to our response to the White Paper on Transport of the European Commission.

For further information, please contact

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Regional rail transport is used by passengers for short trips of a distance of up to 100 km. Each year passengers travel around 190 bill. kilometers on a net of 217 000 km. This saves 14 Mio. tons of carbon dioxide annually compared to travelling by car. Also access roads to cities would be congested if these passengers were not using public transport as a mode for travelling. Europe cannot survive without regional rail transport.

BAG-SPNV is the German Association of Passenger Rail Authorities and cooperating with further Passenger Rail Authorities from Europe in the framework of INTER-Regio-Rail. **We are responsible for organizing Regional Rail Transport in our regions. Our joint aim is to improve Regional Rail Transport in Europe.**

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