

INTER-Regio-Rail email newsletter No. 7

Date: 13 October 2012

(Mailing list: Passenger Rail Authorities in Europe)

Dear Sir/Madam,

As you remember, BAG-SPNV in cooperation with GART, Federmobilità and CAOVD has organised a conference of European passenger rail authorities on 24-25 May in Strasbourg. We are pleased to send you the conference documentation today - see below.

In this newsletter you will furthermore find information on the discussion on public service contracts, the role of regional authorities in the Trans-European Transport Network, the conclusions of the Advocate-general in the infringement cases against Germany and Austria, improved passenger rights and a new alliance to enforce accessibility of PRM to rail. We added comments from the point of view of passenger rail authorities. As usual we will be happy to receive your comments on these.

Yours faithfully,
Susanne Henckel

General Manager, German Association of Passenger Rail Authorities

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1. Documentation of the Conference of passenger rail authorities has been published

On 24-25 May this year 90 representatives mostly from passenger rail authorities of 12 European Union countries met in Strasbourg and discussed their experiences in the fields of governance, infrastructure development and competition. The documentation is now available on www.interregiorail.eu.

2. Public service contracts to be awarded through tendering

The fourth rail package, due to be presented by the end of the year, will tackle the issue of opening up national passenger transport. In a speech delivered in Berlin, on 18 September, Transport Commissioner Siim Kallas said he planned to review rules on the award of public service contracts, which currently concern the vast majority of domestic rail traffic in Europe. Under the existing legislation (1370/2007), states may award such contracts directly, without obliging operators to compete with each other. Kallas would like to make tendering mandatory. National passenger transport would then be made up of a **mix of lines totally open to open access competition and of less profitable lines covered by a public service contract granted through a tendering procedure.**

National authorities currently have a wide margin of discretion in identifying which rail markets are subject to public service obligations, but this will probably be less so in the future, suggested Kallas. New rules are in the works for defining the scope and size of contracts as well as contract conditions (notably duration).

Comments:

Indeed in a number of countries of the EU today railway services are operated either on an open access basis or subsidized by a regional or national public authority. Private operators such as Westbahn (AT), Regiojet (CZ) and HKX (DE) are showing encouraging examples of how modern rail services can look like.

On the other hand there is the danger of cherry-picking. Open-access operators naturally choose to offer services on the most economically viable lines only, and this can lead to higher costs for the public authorities economically unprofitable services are no longer cross-subsidized. Furthermore the railway system may be defragmented if no tariff cooperation, no joint passenger information and no joint ticket distribution between the different operators are organised.

We do not argue against open-access competition, but consider it necessary that this kind of competition is well organised if it is allowed to take place. And we are continuing to discuss this matter with the Commission in Brussels.

3. The ETF rejects the Commission's plans to liberalise national passenger transport

The European Transport Workers' Federation (ETF) has warned that it is considering "actions" to denounce the potential consequences on the sector of the fourth rail package. The ETF rejects the European Commission's plans to liberalise national passenger transport and objects to any review of existing rules on the award of public service contracts (Regulation 1370/2007), which cover most national passenger traffic.

The unions demand safeguarding of the freedom of choice between direct award of the contract or a tendering procedure permitted by Regulation 1307/2007. The ETF fears that railway companies will

compete in the future for the most profitable lines and hours and take no interest in less profitable lines. The unions are also opposed to unbundling, another aspect to be addressed in the fourth package. They argue that the model of 'integrated' companies is best suited to ensure punctuality, long-term investments and promote innovation.

4. Trans-European Transport Network: role of regional authorities

The rapporteurs of the European Parliament on the future Trans-European Transport Network (TEN-T), Georgios Koumoutsakos (Christian-Democrats, GR) and Ismail Ertug (Socialists, DE), agree with the European Commission that **binding deadlines should be set to finish** the TEN-T: 2030 for the core network (priority transport links) and 2050 for the global network. This means there will have to be negotiations with the Council of Ministers, which wants to minimise the obligatory nature of these deadlines.

Georgios Koumoutsakos and Ismail Ertug presented their **draft report** in TRAN Committee on 6 September. While the rapporteurs strongly support the Commission's approach in terms of methodology, coordination (corridors, Coordinators), and requirements, they believe that their draft report is more realistic and ambitious than the legislative proposal. The guiding principle behind the draft report is the need to reinforce the EU added value and engage in adequate infrastructure planning. They stressed that the aim of the regulation is not to enforce regions - a hint to fellow MEPs that might want to include their own regions in the report - but Europe as a whole.

Moreover, Ismail Ertug explained that the rapporteurs suggest a socio-economic cost-benefit analysis of TEN-T projects that goes together with impact analyses. This would ensure long-term benefits. The climate impact assessment is important in that respect. Environmental criteria and rail and inland waterways have to be developed in the interest of the environment.

While the co-rapporteurs and the majority of TRAN MEPs advocate the involvement of civil society as well as regional and local authorities in the planning stages in order to avoid long delays, Peter van Dalen (Conservatives, NL) and Philippe de Backer (Liberals, BE) strongly oppose this. This will probably turn out to be a problematic issue as the Council is not interested either in involving local boards.

a. Role of regional authorities

The co-rapporteurs strengthen the **role of regional authorities** in their draft proposal, namely through amendments 5 and 67 (see below). They estimate that the Commission should develop guidelines and a best practice manual to appropriately involve regional authorities in the TEN-T projects and develop these projects with them. In the rapporteur's view this step will allow long and costly project delays to be avoided.

In order to avoid and prevent future conflicts over certain projects and plans resulting in costly project delays, the co-rapporteurs believe that it is essential to consult civil society organisations with local expertise.

As opposed to the Council which deleted the governance of corridors and therefore the "corridor platform", the co-rapporteurs reinforce the European coordinators and corridor platforms. Moreover, the co-rapporteurs include **regional authorities** among the entities that are part of the corridor platform and corridor development plan.

b. PRM

Due partially to CER lobbying, the co-rapporteurs have made references in recital 24 to improving **access for persons with reduced mobility (PRM)** as well as elderly people to existing stations and trains.

c. Next Steps:

5 November: consideration of amendments
27 November: vote in TRAN Commission
20 December: Transport Council: TEN-T state of play
15 Jan 2013: vote in plenary

5. Conclusions of the Advocate-general in the cases against DE, AT, HU, ES, PT

In his conclusions on the infringement cases against Germany, Niilo Jääskinen, advocate-general of the EU Court of Justice, has concluded that the holding model conforms to EU railway legislation. The advocate-general has also backed Austria (C-555/10), which uses the holding model, but condemned Spain (C-483/10), Hungary (C-473/10) and Portugal (C-557/10) for non-respect of rules under the first rail package.

Current legislation does not oblige member states to institutionally separate the infrastructure manager and the incumbent operator but the Commission says this should be on the condition that a series of measures are implemented to guarantee the organisational and decision making independence of the manager. The advocate-general points out that the additional measures called for by the Commission are not referred to in the directives in question, so their adoption cannot be required of Member States.

The conclusion that the German model is in line with the first rail package also implies that the German model ensures companies have equal and non-discriminatory access to the rail network which is also the political objective of the first package. As a result, it would not be necessary to further reinforce requirements on the independence of the infrastructure manager - which the Commission is preparing in the fourth package - or to require total separation between the manager and the transport operator (unbundling) in order to ensure independence of the manager. Those opposed to greater separation between infrastructure managers and transport operators will certainly use this argument. The Community of European Railways (CER) applauds the advocate-general's confirmation of "what CER has been saying about separation requirements for a long time". In contrast with CER's position, the European Rail Freight Association (EFFA) representing new entrants and the European Rail Infrastructure Managers (EIM) find that the advocate-general's opinion confirms above all the urgent need to reform existing legislation.

By proposing to clear Germany and Austria - both of which have railway holding companies - and rule against Spain, whose infrastructure management and transport functions are totally separate, the advocate-general provides arguments for all those opposed to unbundling, especially in anticipation of the upcoming fourth rail package.

Isabelle Durant (Greens-EFA, Belgium), who is convinced that the Commission wishes to steer Europe into a single model of rail organisation, namely total separation of infrastructure management and transport, called for caution, saying Europe should not “rush headlong” into such a move. Making an analogy with the monetary serpent, she argued for a “rail serpent” in Europe, in which “all stakeholders can find something they like”. The term is well chosen and is likely to be repeated in the coming months, and, in the end, what it suggests may appeal to quite a few.

6. MEPs push for improved passenger rights

On 18 September, the TRAN Committee of the European Parliament adopted a **resolution on passenger rights in all transport modes** (43 in favour, with one abstention) which will have to be endorsed in plenary next month. The report addresses the Commission's communication entitled "A European vision for Passengers: Communication on Passenger Rights in all transport modes" which presents the state of play of the current rules aiming at improving them where necessary in the context of future initiatives

The report considers the **ten specific passenger rights** listed in the communication as being a step forward to build core rights **cutting across modes**. The setting up of guidelines on the application and implementation of those rights is one of the key requests in order to improve their enforcement at short term. A single cross-cutting regulation on passenger rights as a whole remains an aim at medium term.

The report includes provisions calling for the establishment of a maximum delay period for handling complaints as well as the provisions regarding the development of a clear system for through tickets and integrated ticketing. Measures aiming to encourage Railway Undertakings to provide precise, complete and easily accessible information to customers especially in case of cross-border travels are also included in the report.

The report puts forward a range of particular requests addressed to the Commission, to the Member States as well as to all stakeholders - transport companies, service providers and the industry - on issues such as clear and timely information of passengers, enforcement of legislation by specific bodies at national level as well as monitoring and infringement procedures of the Commission. Special attention is paid to the needs of persons with disabilities or reduced mobility, to new technologies and to the development towards intermodal travelling.

7. CER and EDF join forces to enhance accessibility of rail for disabled persons and persons with reduced mobility

On 09 October a conference entitled „ Accessibility of rail transport for disabled persons and persons with reduced mobility” organised by CER and the European Disability Forum (EDF) took place in Brussels. There was general agreement during this conference on the need to put all resources together to improve rail accessibility and the implementation of the rights of all passengers.

During the event, Sian Prout (Head of Unit, Single European Rail Area, DG MOVE) provided information on the upcoming steps in the current revision of the PRM TSI (see [presentation](#)):

- **ERA Recommendation** : April 2013
- **Proposal for a Commission Decision** to amend the PRM TSI based on ERA Recommendation submitted to Member States for opinion - Railway Safety and Interoperability Committee (RISC)
- **Scrutiny of European Parliament and Council**
- **Adoption** by Commission in 2013
- **Entry into force** in 2014

CER took this occasion to present its [brochure](#) on the implementation of the rail passenger rights regulation 1371/2007. The report highlights the following issues:

- the existence of respectable punctuality level;
- improvements in passengers' complaints handling mechanisms. Responses to complaints are generally given in less than one month;
- railways have taken initiatives to improve information on passengers' rights, especially in the event of disruption;
- cooperation on ticketing has increased.

Press release:

CER and EDF join forces to enhance accessibility of rail for disabled persons and persons with reduced mobility

Access conditions for persons with reduced mobility to transport as a whole need to be further improved while securing a sustainable business environment for the rail sector. This was the main message of a conference organized today by the Community of European Railway and Infrastructure Companies (CER), and co-moderated by the European Disability Forum (EDF), on the accessibility of rail transport for disabled persons and persons with reduced mobility. CER and EDF called upon stakeholders to strengthen their cooperation focusing all means and resources to help reaching the objectives.

CER shares the aspiration of EDF and the European Commission to deliver a rail network that can be used by all passengers, including disabled persons and persons with reduced mobility. CER published last June the railways' proposal how to achieve this objective. The CER vision supports enhanced cooperation between all stakeholders at European and national level, from the exchange of best practices to the definition of concrete tools.

As explained by Sian Prout, Head of Unit Single European Rail Area, European Commission, Directorate General Mobility and Transport, the future of the rail sector's accessibility is currently driven by the revision of the Technical Specifications for Interoperability/Persons with Reduced Mobility (TSI PRM). CER and EDF responded by calling for national accessibility plans that should involve all stakeholders, including 'Disabled People Organisations', and will contain deadlines associated with milestones and appropriate public financing to enable achieving an equipment compliance with the TSI PRM. To that aim, CER and EDF invited the European Commission, the European Parliament and the member states to coordinate their actions and to put in place the necessary resources that will boost the accessibility of the railway system while not hindering its economic viability.

Improving access conditions to all users is not new to the European railways. Representing the British Association of Train Operating Companies (ATOC), David Sindall explained that the European rail sector agreed in 2009 on uniform access conditions for disabled persons and persons with reduced mobility. This first successful cooperation in the area of accessibility encouraged railways to continue working together, leading in 2010 to the launch of a common PRM assistance booking tool. Today, the European railways exchange best practices on a regular basis with EDF.

Along with strengthening their cooperation, rail companies are also working with their national councils of disabled persons and persons with reduced mobility to improve the provision of assistance, thereby allowing fulfilling the requirements of the European regulation on rail passenger rights 1371/2007. This work has shown that putting in place assistance services has a great immediate benefit, responding to the specific needs of the local population.

Accessibility is about making life of all passengers easier; the user's experience is essential. Speaking on behalf of EDF, Bruno Gaurier, of the French Council of Disabled People for European Affairs, highlighted the progress and the remaining issues experienced by passengers with disabilities, for instance the accessibility and availability of procedures to request assistance, which is still essential for many persons with disabilities to embark/disembark trains.

Concluding the event, CER and EDF reaffirmed the common objective that the whole transport sector should be made accessible to all passengers, including disabled persons and persons with reduced mobility, as it represents a growing need from the passengers' side and a potential market opportunity for the transport sector. In this respect, CER and EDF look forward to the upcoming publication of the European Accessibility Act, which could establish level playing field between transport modes as regards accessibility requirements for transport infrastructure and vehicles.

Bruno Gaurier, Political Counselor, French Council of Disabled People for European Affairs, representing EDF, said: "We are glad about this opportunity to express common views with the rail sector. There is still a lot of work ahead of us to improve the mobility of persons with disabilities and the rail sector has a key role to play there. It is through increased cooperation that we will manage to go towards an inclusive railway transport service that satisfies the needs of all passengers, including disabled persons and persons with reduced mobility."

Libor Lochman, CER Executive Director, said: "This event is a very positive sign of our constructive approach to the accessibility. The outcome we have achieved in consent with EDF is a very good way

forward. Putting all our resources together will not only help to improving the accessibility of our trains and stations, but also to implementing the rights of all passengers. This is also the conclusion of a report CER and CIT have just published on the implementation of the rail passenger rights regulation 1371/2007. ”

Comment:

Unfortunately this conference has had a rather partial point of view on improving accessibility of the rail sector. In fact Libor Lochman is not speaking for the Community of European Railways when he makes demands on "putting all our resources together", but mainly for the passenger rail authorities who are financing these resources - without even mentioning them.

Passenger rail authorities are certainly not against improving accessibility for PRM who are becoming a more and more important target group. But in many countries of Europe access conditions have to be improved that much and public money is that limited that "one size fits all" TSI PRM are simply wrong. What we need are decisions on the level of the respective passenger rail authority on the measures to implement.

There are examples how money can be truly wasted. For example stations have been made accessible by costly lifts and ramps that in practice are used by very few PRM at all. Why not organise special bus services on demand in such cases? Especially in times of economic crises passenger rail authorities cannot afford to spend money on standards that are not adapted to the local needs.

8. Agenda

- 16 October: [Railways in Europe: General Mobilisation!](#) Event organised by the European Parliament- Brian Simpson (Socialists, UK) and Dominique Riquet (Christian-Democrats, FR)
- 5 November: [CER event: Unbundling in the railway sector: does one size fit all?](#)
- 27-29 November: [TEN-T events](#)
- 28 November 2012: [EU Rail Policy Conference in Brussels](#)
- **11 December: Publication of the 4th Railway Package by the European Commission**

Do you have further questions about our work, or do you no longer wish to receive this newsletter? Is there a colleague of yours who might like to receive this newsletter too?

Please contact INTER-Regio-Rail@bag-spnv.de