

INTER-Regio-Rail email newsletter No. 8

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(Mailing list: Passenger Rail Authorities in Europe)

Dear Sir/Madam,

A busy year is coming to its end, during which we have been to Brussels and Strasbourg on numerous occasions, got in contact with a lot of representatives from the European Commission, the European Parliament and other rail stakeholders and explained the work and challenges of passenger rail authorities. By participating in the “Last Mile” Rail conference in September in Brussels we have even succeeded in leaving our mark in public.

Thanks to all of you who have cooperated with us in drafting and discussing our positions so far!

In this newsletter we are sending you information about the contents of the Commission’s preliminary proposal of the Fourth Railway Package that is now planned to be published on 23 January. We are soon going to approach you with a proposal for a joint opinion of the European passenger rail authorities and ask you about for your feedback. A joint position will enable us to speak with a strong voice about the Fourth railway package. Furthermore this newsletter contains our draft opinion about the revision of the TSI PRM.

We are also attaching the save the date invitation for the INTER-Regio-Rail final conference that is going to take place on 15-16 May 2013 in Bologna, Italy. On this occasion we are going to share our experiences from the INTER-Regio-Rail pilot projects, to discuss and evaluate our European lobbying work and to raise the issue of future cooperation of passenger rail authorities.

Finally I am sending you our best wishes for Christmas and the New Year! We hope to see you in 2013!

Yours faithfully,
Susanne Henckel

General Manager, German Association of Passenger Rail Authorities (BAG-SPNV)

Contents of the newsletter

<i>1. Contents of the Fourth Railway Package</i>	2
<i>2. Save the date: INTER-Regio-Rail final conference on 15-16 May 2013 in Bologna</i>	5
<i>3. Revision of the TSI PRM</i>	5
<i>4. Council adopts the Recast of the First Railway Package</i>	6
<i>5. Implementation of the Regulation 1371/2007 on Rail Passengers’ Rights</i>	7
<i>6. European Commission Consultation on Enablers for European multimodal travel planning and information services</i>	7
<i>7. Best practice for improved regional rail transport: Percha station (IT)</i>	8

1. Contents of the Fourth Railway Package

Originally the European Commission had planned to publish its proposal for the Fourth Railway package by the end of 2012. It has turned out however that some amendments are necessary in relation to the impact assessments, and also the contribution from the other DGs is taking time. The date for publishing the legislative proposal has therefore been postponed to 23 January 2013.

The proposal contains three elements:

- a) The **role of the European Railway Agency** (including revision of the regulation on the functioning of the Agency, amendments to the directives on interoperability and security);
- b) The **revision of the Regulation on Public Service Obligations** in urban transport ([1370/2007](#));
- c) The revision of the recast of the first railway package ([2012/34/EU](#)), especially the rules on **governance** and domestic passenger market opening.

Draft versions are already circulating in Brussels, and INTER-Regio-Rail has got hold of one of them. These are the main points of interest from the point of view of passenger rail authorities (*in italic letters our assessments*):

a) European Railway Agency

With the aim of removing the remaining administrative and technical barriers for railway undertakings active across the EU the Commission proposes the following changes for the future role of the European Railway Agency (ERA):

- ERA and NSAs share competencies, where final decision on the certification and authorization is taken by the Agency ("Option 4")
- Horizontal measures, includes other legislative and soft measures beyond sharing the responsibilities between national authorities and ERA to be implemented to improve the competitiveness of the rail sector, like enhancing the role of ERA in the dissemination of railway-related information and training or migrating from national technical and safety rules to a system of EU rules (through the identification of unnecessary rules by ERA and NSAs and then the requirement for national authorities to remove those rules, as well as limiting the possibility of adopting new rules) ("Option 6").

This proposal is the most consensual one among stakeholders. However, DG BUDGET of the European Commission made comments on the risk of cost increases for the budget of the European Union at times of crisis.

> We very much welcome the aims of the commission to decrease administrative costs and accelerate administrative procedures as well as to avoid disguised discrimination.

It is difficult for us to see from the legislative proposals however how these aims will be reached. In fact the sharing of competencies between the ERA and the national NSAs and the additional administrative tasks of the ERA, resulting in 70 extra staff members and the introduction of fees and charges as a new source of the ERA budget bears the risk of extra administrative costs and heavier administrative procedures.

We are therefore in favour of the legislative proposal as long as the above mentioned risks are avoided. We furthermore request the following conditions to be met for the new structure of ERA to be implemented:

- *A contact person of the ERA / NSA should easily be available in each Member state, creating no inconveniences for the railway stakeholders in comparison to the today's responsibility of the national NSAs.*
- *It should be possible for railway stakeholders to communicate with the ERA in their national language.*
- *Administrative procedures for the certification of the rolling stock have to be considerably accelerated.*

b) Public Service Obligations

The European Commission has identified the problems connected to competition in the railway market correctly: In many Member States of the EU the rail market is closed for competition, the majority of services is not provided on a commercial basis, and there are many market entry barriers for non-incumbent railway undertakings, in particular access to rolling stock and to information and distribution systems. Under these conditions, the railway sector will not achieve the objective of the White Paper for Transport of 2011 to improve its market share and contribute to the reduction of greenhouse gas emissions from transport by 60% by 2050.

It has been reported that DG Employment has added certain recitals to DG MOVE's proposal covering the issue of social conditions, namely that the staff of the company that loses the contract should be taken care of adequately.

In order to eliminate the existing barriers to competition, the Commission proposes a number of amendments to the regulation 1370/2007. These are:

- The establishment of **public transport plans** by the authorities responsible for public transport. The transport plans shall define the objectives of the public passenger transport policy, and accordingly lay the ground for the specifications of services for calls for tenders of transport services. The rail regulatory body controls the compliance of the public service obligations and of the award of contracts with these plans.
- The **limitation of the maximum size of the transport volume under each public service contract** to the higher figure of either 10 million train-km pa or one third of the total national train-km pa provided under public service contract.
- The **mandatory competitive award of rail contracts** (deletion of Article 5, Paragraph 6)
- The obligation for Member States to allow railway undertakings a non-discriminatory **access to vehicles**.
- The **mandatory publication of information on on-going and future public service contracts**, enabling the railway stakeholders and the industry to analyze the market and to assess their business opportunities.
- The possibility for passenger rail authorities to **limit the number of contracts to be awarded following a tendering procedure to the same railway undertaking** in order to increase competition between railway undertakings.

> Against the background that in 19 of 25 Member States of the EU passenger rail authorities at least partially own incumbent railway undertakings and therefore mostly have limited interest in competitive tendering of passenger rail services the a number of very broad provisions of the Commission will remain largely ineffective:

- The **limitation of the size of transport contracts** to one-third of the total national train-km will remain ineffective because the amount of services non-incumbent railway undertakings are able to offer is usually well below this figure.
- Member States are only required to allow potential competitors non-discriminatory **access to rolling stock** but do not have to offset the further advantages of incumbent railway undertakings to access to rolling stock in the assessment of tenders. The further advantages are linked to purchasing rolling stock (quantity discounts), rating (cheaper credits) and the access to used rolling stock (easy renovation of available used vehicles - no market exists for used vehicles yet).
- The mandatory opening of the existing **ticket distribution infrastructure** to the non-discriminatory use at transparent costs by new entrants in order to offer a coherent ticketing to the passengers is missing. In fact ticket distribution is a major market entry barrier for new entrants in regional passenger rail transport.

Furthermore some of the elements of the proposal lead to disadvantages for passenger rail authorities, especially to those that are in favour of competition:

- The establishment of **public transport plans** and the demonstration of the conformity of tender documents with these lead to high administrative costs. Also this rule restricts the necessary flexibility of authorities that want to promote competition.
- The possibility to **limit the number of contracts to be awarded** following a tendering procedure **to the same railway undertaking** competition will be allowed only until the year 2023. This limitation will abolish the possibility of passenger rail authorities to promote competitors to incumbent railway undertakings.

As a result we assume that with the measures proposed by the European Commission competition will improve only in Member States where passenger rail authorities encourage competition by their own interest. The Commission is therefore likely to miss its goal of achieving a competitive railway market in the whole of Europe. Furthermore the European legislator risks creating extra and in some cases unnecessary burdens for European passenger rail authorities.

c) Governance

The preliminary draft proposal of the European Commission on the governance of the railway infrastructure covers the following important contents:

- It clarifies which **essential functions** are to be performed by the infrastructure managers.
- It introduces the compulsory **institutional separation between infrastructure managers and railway undertakings**
- However, until 03 December 2019, holdings are still allowed, but infrastructure managers within integrated companies shall have the independent decision-making authority over the essential functions, guaranteed in particular through the separation of financial flows and interventions in the management of the companies (**transitional period**).

- A **coordinating body** is established with the purpose of a better coordination between infrastructure managers and their customers. Members of the coordinating bodies are the infrastructure manager, railway undertakings and their corresponding associations, representatives of the users and the passenger rail authorities. Its goal is to develop recommendations for the development of the infrastructure, for a performance regime, for train path allocation and infrastructure charges.
- A **European network of railway infrastructure managers** is created with the aim of improved cross-border cooperation of the infrastructure managers and the development of the European rail network, furthermore of improving the efficiency of infrastructure managers.
- **Access rights** for all European railway undertakings for **domestic passenger rail services** in all Member States are established.
- Member States can restrict the right of access if the **economic equilibrium of public service contracts** is affected.
- Member States have the option to establish a **common tariff and ticket distribution** if competition is not compromised.

> As in a number of Member States passenger rail authorities find it difficult to cooperate with infrastructure managers that are part of integrated railway companies we consider the measures proposed by the European Commission to be a reasonable improvement of the framework conditions for competition in rail transport in Europe.

Do you agree to the assessments that we propose? We are going to send you a proposal for our joint position soon and ask you to send us your comments to it. We very much would like to present our joint position in Brussels with a strong voice of many passenger rail authorities - in order to prevent the European legislator from making our work more difficult.

2. Save the date: INTER-Regio-Rail final conference on 15-16 May 2013 in Bologna

The passenger rail authorities' associations of France (GART), Italy (Federmobilita), the Czech Republic (CAOVD) and Germany (BAG-SPNV) warmly [invite you to the INTER-Regio-Rail final conference](#) in spring this year.

INTER-Regio-Rail has enabled passenger rail authorities from Central Europe to implement pilot projects for the improvement of regional rail transport and to jointly lobby for better framework conditions for their work in their home countries and in the European Union. During the conference we will present the results of the INTER-Regio-Rail pilot projects with you and discuss how other authorities can apply these results in their work. The INTER-Regio-Rail partnership has furthermore created a network of European passenger rail authorities that shares experience among its partners and jointly lobbies for better European legislation.

We are inviting you to join this process in Bologna! Our conference office will send you a more detailed agenda soon.

3. Revision of the TSI PRM

As we wrote you on 09 November, we have the occasion to comment on the preliminary draft version of the revised TSI on Accessibility to Persons with Reduced Mobility (TSI PRM) in the course of the social consultation of the European Railway Agency until 01 February. [Here is the document](#) that we carefully checked with our station infrastructure and rolling stock experts, and these are our findings in brief:

- The text of the revised TSI PRM is much easier to read than the current version
- The geographical scope of the TSI PRM has been extended to the whole European railway system.
- For some issues the TSI PRM is still setting high standards that may be rather expensive to implement for regional rail transport. It would make more sense to leave freedom to regional passenger rail transport authorities and undertakings to decide on the accessibility standards along the local and regional needs.

Please find our full draft position [here](#). Do you agree to this? Are there any amendments that you propose? **We would be glad to receive your feedback until 21 January, so we can integrate it in our joint position.**

4. Council adopts the Recast of the First Railway Package

On 29 October, Transport Ministers at the Council meeting officially approved the text agreed with the European Parliament regarding the proposal for a Directive establishing the Single European Railway Area - the Recast of the First Railway Package. Member States have 30 months to transpose the Directive into their national legislation (= until 16 June 2015).

The text defines the role of and relations between Member States, transport companies, infrastructure operators and regulatory bodies to guarantee effective competition. It also facilitates railway companies' access to rail related services and infrastructure such as railroad yards and holding tracks, which are a key to ensuring competition on national networks.

Germany, Austria and Luxembourg voted against the measure while Poland, Slovakia and Estonia abstained. The following criticisms were expressed by the concerned parties:

- The European Commission evoked problems regarding delegated acts.
- Germany rejected the agreement with the Parliament because:
 - of inappropriate provisions on charging for noise and ETCS
 - of the requirement to establish separate accounts for each infrastructure annex
- Poland and Slovenia abstained because
 - the transposition periods are too tight
 - of insufficient exceptions for cross-border freight transport with Russia
- Austria rejected the adoption of the recast for reasons similar to those of Germany.

These reticences did not prevent the adoption of the recast by a qualified majority.

You will find the text of the new directive here: [2012/34/EU](#).

As explained above, the Commission intends to modify some provisions of this Directive with the 4th Railway Package.

5. Implementation of the Regulation 1371/2007 on Rail Passengers' Rights

The European Commission commissioned a study to Steer Davies Gleave (SDG) on the implementation of Regulation 1371/2007. The results of the [study](#) published on 13 November indicate that railway undertakings have effectively implemented most of the requirements of Regulation (EC) 1371/2007 on rail passengers' rights and obligations. The European Commission is currently preparing the implementation report this regulation and draft guidelines for the implementation of the Regulation which should be published in 2013.

The study underlines that there are no major problems with the implementation of the Regulation by railway undertakings and highlights the sector's effectiveness in implementing most of its requirements. The study also underlines that requirements to provide compensation, rerouting or refunds, and assistance to passengers in the event of travel disruption had also been effectively implemented in many respects. The same positive results concern the requirements of providing assistance for disabled passengers and persons with reduced mobility (PRMs). The study outlines that some railway undertakings even provide a better service than the Regulation requires.

According to the study, the main requirement which has not been implemented effectively is the requirement to publish service quality reports on the website of the European Railway Agency (ERA).

6. European Commission Consultation on Enablers for European multimodal travel planning and information services

On 19 December the European Commission launched a public consultation on enablers for European multimodal travel planning and information services. The Commission seeks to gather stakeholders' opinion on a number of remaining challenges preventing the broad deployment of Multimodal Travel Planning and Information Services, and on a number of measures the European Commission is proposing to overcome them.

The consultation follows up on the work in the domain of multimodal journey planning and information services carried out under the Intelligent Transport System Action Plan and ITS. It also takes stock of the 1st Smart Mobility Challenges on multimodal journey planners and discussions held during the Informal Ministerial Meeting that took place in Cyprus in July 2012.

The consultation period is 19/12/2012 - 12/03/2013, and INTER-Regio-Rail is going to elaborate a proposition for a joint answer of European passenger rail authorities to the survey. We are going to be back on this topic in January!

7. Best practice for improved regional rail transport: Percha station (IT)

In South Tyrol railways have started to improve their offer for tourists in the past years. Tourism is putting the regional transport infrastructure under pressure. All modes of transport have to be coordinated and use their full potential to offer tourists an optimal experience.

The new railway station in Percha was part of a major refurbishment effort of the Puster Valley Railway that started in 2008 and was concluded in December 2010. The railway line was fitted to allow 30 minute intervals for trains. Several railway stations were renovated, two new railway stations were put into service. The improved offer resulted in passenger numbers rising by 300 %.

The goal of the railway station in Percha was to improve usage of trains by ski tourists. The new railway station is projected to reduce car usage by skiing tourists visiting the skiing area Kronplatz close by as much as 40%. A lift carrying skiers up to the skiing area is integrated directly into the railway station. Also a new slope was developed that connects the skiing area to the new railway station. The “Ski-train” also offers a connection to the Hochpustertal Skiing Area every 30 minutes.

The concept will be copied in several other railway stations in South Tyrol. A new railway station to reach the skiing area Helm will be developed in Vierschach. Also in Mühlbach and Brixen railway stations will be built to allow easier access to local skiing areas. This will improve the attractiveness of the offer even further and improve the sustainability of tourism in South Tyrol.



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