

Railway transport of passengers: opening to international competition, Rail Market Access.

3rd package

2004/0047(COD) - 23/10/2007 - Final act

PURPOSE: to follow up the reform of the rail sector by opening up international rail passenger services within the European Union to competition (third rail package).

LEGISLATIVE ACT: Directive 2007/58/EC of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure.

CONTENT: the Council adopted the three legislative proposals composing the third rail package, namely:

- this Directive on the development of the Community's railways;
- a directive on the certification of onboard personnel ensuring the operation of locomotives and trains (see [COD/2004/0048](#));
- a regulation on rail passengers' rights and obligations ([COD/2004/0049](#)).

The three legal acts were adopted pursuant to the joint draft texts agreed by the Council and the European Parliament through an exchange of letters on 20 and 21 June 2007, in the framework of the conciliation procedure.

The Directive on access to rail services allows the opening up of international rail passenger services by 2010 and includes the right for international trains to provide cabotage services, namely the right to pick up and set down passengers at any station located along the route of an international service, including stations located in the same Member State.

So that the opening up of international rail passenger services does not lead to the opening up of the market for domestic passenger services, the Directive states that the right of access only applies to international services, whose principal purpose is the transport of passengers between stations in different Member States. Member States may exclude from the scope of this Directive any railway service carried out in transit through the Community and which begins and ends outside the Community territory.

The Directive is a fair balance between the opening up of the market, on the one hand, and the protection of public transport services, on the other. To reach this balance, the text provides for:

- a procedure which makes it possible to determine whether the opening-up of the market for international rail passenger services compromises the economic equilibrium of public transport services;
- a clarification of the rules for granting the right of access; and
- a rule enabling Member States to impose a levy on international rail passenger services. In line with the expectation of the European Parliament, the rules governing the levy on international rail passenger services, aiming to finance public transport services, specify that the total revenue raised from such a levy shall not endanger the economic viability of the rail passenger transport service on which it is imposed, and that the compensation paid may not exceed the total cost incurred in the relevant public service obligations.

Member States may also limit the right to pick up and set down passengers at stations within the same Member State on the route of an international passenger service where an exclusive right to convey passengers between those stations has been granted, under a concession contract awarded before 4 December 2007, on the basis of a fair competitive tendering process. This limitation may continue for the original duration of the contract, or 15 years, whichever is the shorter.

Concerning the committee procedure, the Directive allows measures necessary for the adaptation of the Annexes of Directive 91/440/EEC and Directive 2001/14/EC to be adopted in accordance with the “regulatory procedure with scrutiny”.

In 2012, the Commission will present a report on the application of the Directive, which will evaluate the development of the market, including the degree of preparation of a further opening up of passenger rail services. It shall also analyse the different models for organising this market and the impact of this Directive on public service contracts and their financing. In this report, the Commission shall, if appropriate, propose complementary measures to facilitate any such opening and assess their impact.

ENTRY INTO FORCE: 04/12/2007.

TRANSPOSITION: 04/06/2009.