

Single European railway area. Recast

2010/0253(COD) - 23/07/2012 - Commission opinion on Parliament's position at 2nd reading

OPINION of the Commission on the European Parliament's amendment to the Council's position regarding the proposal for a Directive of the European Parliament and of the Council establishing a single European railway area (recast)

The Commission recalls that following a number of informal contacts that took place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at second reading, an overall compromise amendment was voted by the plenary on 3 July 2012.

The Commission endorses this comprehensive compromise amendment on substance.

The most important changes introduced by the comprehensive amendment of the European Parliament to the Council's position are as follows: i) infrastructure financing; ii) infrastructure charging; iii) market access conditions; iv) separation between infrastructure managers and railway undertakings; v) regulatory oversight; vi) transposition and implementation deadlines; and vii) the scope of application.

The second reading agreement confers on the Commission implementing powers in order to ensure uniform conditions for the implementation of the Directive. It makes sure that those powers will be exercised in accordance with Regulation (EU) No 182/2011 for the adoption of implementing acts.

The agreement refers to nine specific cases where the third subparagraph of Article 5(4) of Regulation (EU) N° 182/2011 shall apply. In those cases, the Commission shall not adopt an implementing act if the committee delivers no opinion. In three other cases, the normal procedure under Article 5(4) shall apply.

Cases where Article 5(4) subparagraph 2, point b) of Regulation 182/2011 for the adoption of implementing acts will apply have been justified by reasons of their potential impact on public finances or on the functioning of the rail market. However such justification is not reflected in a recital. Given that it is an exception to the general rule established by Article 5 (4), the Commission considers that recourse to subparagraph 2, point b), cannot be simply seen as a "discretionary power" of the legislator, but must be interpreted in a restrictive manner and thus must be justified.

The agreement on the comitology procedures has led the Commission to make a statement on the matter.