

# Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Directive	2002/0025(COD) Procedure completed
Railway transport: development of the Community's railways. 2nd package Repealed by <a href="#">2010/0253(COD)</a>	
Subject 3.20.02 Rail transport: passengers and freight	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>DELE</b> EP Delegation to Conciliation Committee		13/11/2003
		PPE-DE <a href="#">JARZEMBOWSKI Georg</a>	
	Former committee responsible		
	<b>RETT</b> Regional Policy, Transport and Tourism		21/02/2002
	PPE-DE <a href="#">JARZEMBOWSKI Georg</a>		
	<b>RETT</b> Regional Policy, Transport and Tourism		21/02/2002
		PPE-DE <a href="#">JARZEMBOWSKI Georg</a>	
	Former committee for opinion		
	<b>JURI</b> Legal Affairs and Internal Market	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">2578</a>	26/04/2004
	<a href="#">Environment</a>	<a href="#">2556</a>	22/12/2003
	<a href="#">Agriculture and Fisheries</a>	<a href="#">2516</a>	25/06/2003
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2499</a>	27/03/2003
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2472</a>	05/12/2002
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2452</a>	03/10/2002
European Commission	Commission DG	Commissioner	
	Energy and Transport		

Key events			
23/01/2002	Legislative proposal published	<a href="#">COM(2002)0025</a>	Summary
27/02/2002	Committee referral announced in Parliament, 1st reading		
03/10/2002	Debate in Council	<a href="#">2452</a>	
27/11/2002	Vote in committee, 1st reading		Summary
27/11/2002	Committee report tabled for plenary, 1st	<a href="#">A5-0417/2002</a>	

	reading		
05/12/2002	Debate in Council	<a href="#">2472</a>	
14/01/2003	Debate in Parliament		
14/01/2003	Decision by Parliament, 1st reading	<a href="#">T5-0004/2003</a>	Summary
25/06/2003	Council position published	<a href="#">08011/3/2003</a>	Summary
03/07/2003	Committee referral announced in Parliament, 2nd reading		
01/10/2003	Vote in committee, 2nd reading		Summary
01/10/2003	Committee recommendation tabled for plenary, 2nd reading	<a href="#">A5-0327/2003</a>	
21/10/2003	Debate in Parliament		
23/10/2003	Decision by Parliament, 2nd reading	<a href="#">T5-0453/2003</a>	Summary
22/12/2003	Parliament's amendments rejected by Council		Summary
13/03/2004	Report tabled for plenary, 3rd reading	<a href="#">A5-0242/2004</a>	
16/03/2004	Formal meeting of Conciliation Committee		
16/03/2004	Final decision by Conciliation Committee		Summary
23/03/2004	Joint text approved by Conciliation Committee co-chairs	<a href="#">3641/2004</a>	
21/04/2004	Debate in Parliament		
22/04/2004	Decision by Parliament, 3rd reading	<a href="#">T5-0355/2004</a>	Summary
26/04/2004	Decision by Council, 3rd reading		
29/04/2004	End of procedure in Parliament		
30/04/2004	Final act signed		
30/04/2004	Final act published in Official Journal		

### Technical information

Procedure reference	2002/0025(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
	Repealed by <a href="#">2010/0253(COD)</a>
Legal basis	EC Treaty (after Amsterdam) EC 071-p1
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/20325

### Documentation gateway

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Legislative proposal	<a href="#">COM(2002)0025</a> <a href="#">OJ C 291 26.11.2002, p. 0001 E</a>	23/01/2002	EC	Summary
Committee draft report	PE314.707	01/07/2002	EP	
Economic and Social Committee: opinion, report	<a href="#">CES1028/2002</a> <a href="#">OJ C 061 14.03.2003, p. 0131</a>	18/09/2002	ESC	
Committee of the Regions: opinion	<a href="#">CDR0097/2002</a>	10/10/2002	CofR	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0417/2002</a>	27/11/2002	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T5-0004/2003</a> OJ C 038 12.02.2004, p. 0015-0089 E	14/01/2003	EP	Summary
Council statement on its position	<a href="#">10587/1/2003</a>	20/06/2003	CSL	
Council statement on its position	<a href="#">10587/2003</a>	20/06/2003	CSL	
Council position	<a href="#">08011/3/2003</a> <a href="#">OJ C 270 11.11.2003, p. 0001-0006 E</a>	25/06/2003	CSL	Summary
Council statement on its position	<a href="#">10840/2003</a>	25/06/2003	CSL	
Commission communication on Council's position	<a href="#">SEC(2003)0754</a>	30/06/2003	EC	Summary
Committee draft report	PE331.368	01/09/2003	EP	
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A5-0327/2003</a>	01/10/2003	EP	
Text adopted by Parliament, 2nd reading	<a href="#">T5-0453/2003</a> OJ C 082 01.04.2004, p. 0319-0502 E	23/10/2003	EP	Summary
Commission opinion on Parliament's position at 2nd reading	<a href="#">COM(2003)0719</a>	26/11/2003	EC	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	<a href="#">A5-0242/2004</a>	13/03/2004	EP	
Joint text approved by Conciliation Committee co-chairs	<a href="#">3641/2004</a>	23/03/2004	CSL/EP	
Committee draft report	PE287.641	07/04/2004	EP	
Text adopted by Parliament, 3rd reading	<a href="#">T5-0355/2004</a> <a href="#">OJ C 104 30.04.2004, p. 0743-0947 E</a>	22/04/2004	EP	Summary

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 2004/51](#)  
[OJ L 164 30.04.2004, p. 0164](#)

[Corrigendum to final act 32004L0051R\(01\)](#)  
[OJ L 220 21.06.2004, p. 0058-0060](#) Summary

## Railway transport: development of the Community's railways. 2nd package

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PURPOSE : to establish a regulatory framework for an integrated European market in freight services.

PROPOSED ACT : Directive of the European Parliament and of the Council.

CONTEXT : This proposal is part of a package to revitalise the Community railway system by creating an integrated European railway system. The directive is linked to other proposals in this same package, in particular the proposal to establish a common regulatory framework for railway safety and the proposal on amending directives on interoperability of rail systems. It applies a gradual approach to harmonisation and the development of common principles, taking into account the great differences that exist between the Member States. The other measures in the package relate to safety, amendments of the directives on interoperability, and the establishment of a European Railway Agency.

CONTENT : The Commission recalls that the application of the principle of freedom to provide services implies rights of access to rail infrastructure for railway undertakings established and licensed in the EU. Directive 91/440 made a first step in this direction by establishing rights of access for international groupings and railway undertakings to operate international combined transport. Directive 2001/12 established access rights to the Trans-European Rail Freight Network and at latest from 2008 onwards to the whole European rail freight network for international services.

It is time to prepare the next step of market integration, the opening of domestic rail freight markets (i.e. regular domestic services by a foreign railway undertaking) including the possibility of cabotage (i.e. occasional domestic services while performing international services).

The Commission believes that opening the rail freight markets will unleash the competition that is necessary to provide market actors with the necessary incentives to become more efficient and more competitive, as well as to do business closer to the customer. It should attract new capital and enterprises, stimulate the development of new services responding to the requirements of the customers and to improve the financial situation of the railway undertakings.

Hence, the current proposal stipulates that all railway undertakings established and licensed in the European Union will be granted access to the railway network for domestic and international rail freight services from the date of implementation of this Directive onward. The concept of limiting access for international rail freight services to the Trans-European Rail Freight Network (TERFN) that was in any case only a transitory arrangement until 2008 at the latest will be repealed. Therefore, this proposal deletes all references to the TERFN.

The provisions in Directive 91/440 as amended by Directive 2001/12 that relate to railway safety are deleted in this proposed amendment to avoid any overlap with the proposed directive on railway safety.

## Railway transport: development of the Community's railways. 2nd package

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The committee adopted the report by Georg JARZEMBOWSKI (EPP-ED, D) amending the Commission proposal under the codecision procedure (1st reading). It called for the entire network to be opened up by 1 January 2006 not only for international and national freight markets, as proposed by the Commission, but also for cross-border rail passenger services. It also called for national rail passenger services to be opened up by 1 January 2008. The committee added that the right of access to the network shall include the right of undertakings to schedule their own train paths.?

## Railway transport: development of the Community's railways. 2nd package

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The European Parliament adopted a resolution based on the draft by Georg JARZEMBOWSKI (EPP-ED, Germany) and made some amendments to the Commission's proposal. (Please refer to the document dated 27/11/02.) Parliament added that to ensure efficient use of rail transport, persons other than licensed railway undertakings must be able to apply for the allocation of railway infrastructure capacity. Directive 2001/14/EC should be amended accordingly. The definition of "applicant" was also amended.?

## Railway transport: development of the Community's railways. 2nd package

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The Council adopted, by qualified majority, the "Second Railway Package", the Belgian, French and Luxembourg delegations voting against, establishing a single market for rail transport service. This package includes the following legal texts: - the Directive on the interoperability of the trans-European rail system; - the Directive on safety on the Community's railways; - the Directive on the development of the Community's railways (market access); - the Regulation establishing a European Railway Agency. In the framework of the overall agreement on Council's common position, the scope and timetable of market access formed most naturally important elements of the overall political compromise achieved by the Council. The Council could therefore not accept the two amendments, which aim to widen considerably the scope of this Directive by incorporating the transport of passengers by rail. The provisions relating to market access in the Council's common position may be summarised as follows: - railway undertakings shall be granted, on equitable conditions, at the latest by 1 January 2006, access to the entire rail network for the purpose of operating international freight services; - at the latest by 1 January 2008, railway undertakings shall be granted, on equitable conditions, access to the infrastructure in all Member States for the purpose of operating all types of rail freight services. Furthermore, by 1 January 2007, the Commission shall submit a report on the implementation of the Market Access Directive. Moreover, it may be noted in this respect that the Commission has presented a declaration stating its intention to present by end of 2003 to the European Parliament and the Council a proposal relating to the introduction of a European driving license for train drivers. With regard to the aforementioned provisions regarding market access, as well as concerning the date of entry into force, the Council has for the sake of clarity made reference to specific dates, rather than making this date dependent upon the eventual date of publication in the Official Journal, as initially proposed. The Council holds that this presentation is a clear signal to all actors involved. Furthermore, Council has agreed on the substance of the amendments which seek to maintain the references to the Trans-European Rail Freight Network (TERFN). In fact, amendments were accepted to the letter, whereas the other amendments were largely taken into account.?

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The Commission supports the texts of the common position. However, as regards the Agency, the Commission would like to draw attention to the forthcoming adoption of the standard provisions for all agencies following the entry into force of the new Financial Regulation. The Commission entered the following statements in the minutes of the Transport Council meeting of 28 March 2003: - The Commission intends to present by the end of 2003 to the European Parliament and the Council a proposal relating to the introduction of a European driving licence for train drivers. Besides, the Commission fully supports and encourages the work in progress in the framework of the European Social Dialogue by the social partners, in accordance with Article 139 of the Treaty, concerning the harmonisation of driving times and rest periods for train drivers and staff accompanying trains; - The Commission declares that the final budgetary needs for the European Railway Agency depend on a clear agreement on the competencies of this Agency between the Council and the European Parliament. These needs, of which a first assessment has been made in the financial statement attached to the legislative proposal, will have to be translated in the annual budgetary requests tabled by the Commission to the Council and the Parliament acting as the budgetary authority. A precise estimate of these needs for 2004-2006 can only be made once the codecision procedure has been completed; - The arrangements laid down in paragraphs 4 and 5 of Article 8 of the Directive on safety do not constitute a system of prior authorisation.?

## Railway transport: development of the Community's railways. 2nd package

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The committee adopted the report by Georg JARZEMBOWSKI (EPP-ED, D) amending the Council's common position under the 2nd reading of the codecision procedure. The committee restated Parliament's view, as expressed at 1st reading, that the entire rail network should be opened up as swiftly as possible to rail freight services of all kinds and to both national and international passenger services in order to counteract the constant increase in heavy goods vehicles and the expanding car and air traffic in the EU. MEPs therefore called for rail networks in all EU countries to be opened up by 1 January 2006 for rail freight and combined transport goods services, and by 1 January 2008 for rail passenger services. Member States which so wished could grant access rights for all these services at an earlier date. The committee added, as Parliament had also stated at 1st reading, that the right of access to the network should include the right of undertakings to schedule their own train paths, as network access rights would otherwise be meaningless. Moreover, to ensure efficient use of rail transport, persons other than licensed railway undertakings (for example, consignors and forwarders) must be able to apply for the allocation of railway infrastructure capacity, and the definition of "applicant" in Directive 2001/14/EC should therefore be amended accordingly. ?

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The European Parliament adopted the report by Mr M. Georg JARZEMBOWSKI (EPP-ED, D). It has taken an important step towards liberalising railways in the Community. MEPs voted to grant railway companies free access to rail infrastructure, across EU borders, by 1 January 2006 for the purpose of operating freight services and combined transport, and by 1 January 2008 to operate passenger services. This vote means that Parliament has taken a different position to the Council on the timetable for liberalising the European railway market, especially on opening up international and national passenger services. The two institutions will therefore have to start conciliation negotiations. Lastly, the report invites the Commission to examine, on the basis of the report to be submitted at the latest by 15 March 2005, the possibility of extending access rights for rail passenger transport, and present an appropriate proposal to that effect.?

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The Commission's initial proposal concerned the transport of goods by rail. Parliament wishes to go in the direction of the Commission's proposals in this area in order to bring about a speedy, complete opening of the market for rail freight services. It wants the deadline of 2005 for presenting the report on the situation of market opening to be maintained, as provided for under the current Directives, and not to be postponed until 2007. It also wants the report to take account of passenger traffic. The Commission can accept these amendments. Parliament also wishes to address the issue of opening up the market for passenger services in the framework of this second railway package. The Commission maintains the stance it already expressed at first reading on this issue and is unable to accept the Parliament's amendments on this issue.?

## Railway transport: development of the Community's railways. 2nd package

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The Council did not approve the European Parliament's second reading amendments regarding the four proposals (3 Directives and 1 Regulation) on the Community's railways. Consequently the Conciliation Committee is convened in accordance with Article 251(3) of the TEC.?

## Railway transport: development of the Community's railways. 2nd package

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The Conciliation Committee reached agreement on the directive on the development of the Community's railways. The main points of the compromise package are as follows: - licensed railway undertakings will be granted rights of access to international rail freight services from 1 January 2006 at the latest and to national freight services from 1 January 2007, a year earlier than in the common position. It was also agreed that Commission would submit a report on the implementation of the directive as well as on developments in traffic, safety, working conditions and the situation of operators by 1 January 2006; - at the end of negotiations Parliament accepted the Council's refusal to regulate the liberalisation of rail passenger services in this directive. However, the Council accepted a recital setting a date of 2010 for liberalisation of international passenger services as "an objective allowing all operators to prepare in an appropriate manner". Parliament and Council agreed to examine "diligently" the third railway package put forward by the Commission on 3 March 2004. ?

## Railway transport: development of the Community's railways. 2nd package

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The European Parliament approved the agreements in conciliation on the second rail package. (Please refer to the previous summary).?

## Railway transport: development of the Community's railways. 2nd package

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**PURPOSE:** to accelerate the integration of the European Rail freight market.

**LEGISLATIVE ACT:** Directive 2004/51/EC of the European Parliament and of the Council amending Council Directive 91/440/EEC on the development of the Community's railways. (Corrigendum of the Regulation published in OJ L164 of 30 April 2004).

**CONTENT:** this Directive has been adopted as part of the second railway package which was agreed upon in conciliation. The Second Railway Package will help to accelerate the integration of the market by removing important obstacles to cross-border services. It will guarantee a high level of safety for railway operation and will contribute to reducing costs and facilitating operations through a greater harmonisation of technical standards in the railway sector.

This Directive extends infrastructure access rights to freight services within a Member State and open up the market more quickly. The international rail freight market will have to be completed by 2006. The agreed date for the complete opening of the rail freight markets, including cabotage, is 1st January 2007.

To recall, Council Directive 91/440/EEC of 29 July 1991 provides that licensed railway undertakings are granted rights of access to the trans-European Rail Freight Network and, at the latest from 2008, to the whole network for international rail freight services.

The extension of those access rights to international rail freight services on the whole network as from 1 January 2006 should lead to greater than expected gains in terms of modal shift and the development of international rail freight.

The extension of those access rights to all kinds of rail freight services as from 1 January 2007, in accordance with the principle of freedom to provide services, would improve the efficiency of the rail mode relative to other modes of transport. It would also facilitate sustainable transport between and within Member States, by encouraging competition and allowing entry of new capital and enterprises.

With regard to market-opening for international passenger transport services, the date of 2010 proposed by the Commission has to be considered as an objective allowing all operators to prepare in an appropriate manner. The Commission should study developments in traffic, safety, working conditions and the situation of operators and should produce, by 1 January 2006, a report on those developments accompanied, where appropriate, by fresh proposals providing a basis for the best possible conditions for the Member States' economies, for rail undertakings and their employees, and for rail users.

**ENTRY INTO FORCE :** 30/04/2004.

**IMPLEMENTATION :** 31/12/2005.