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**PROPOSAL**

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from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 30 August 2013

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL amending Regulation (EC) No 91/2003 of the European  
Parliament and of the Council of 16 December 2002 on rail transport statistics,  
as regards the collection of data on goods, passengers and accidents

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Delegations will find attached Commission document COM(2013) 611 final.

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Encl.: COM(2013) 611 final



Brussels, 30.8.2013  
COM(2013) 611 final

2013/0297 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**amending Regulation (EC) No 91/2003 of the European Parliament and of the Council**  
**of 16 December 2002 on rail transport statistics, as regards the collection of data on**  
**goods, passengers and accidents**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

The main objective of the European Union's transport policy is to establish an internal market by developing common policies to promote a high degree of competitiveness and the harmonious, balanced and sustainable development of economic activities. The creation of a genuine internal market is fundamental to revitalising the railway sector and will help to make rail freight and passenger transport services more competitive and attractive, and increase their modal share of transport.

In 2011, the European Commission adopted a roadmap (White Paper — Roadmap to a Single European Transport Area — Towards a competitive and resource efficient transport system) featuring 40 concrete initiatives for the next decade aimed at building a competitive transport system that will increase mobility, remove major barriers in key areas and fuel growth and employment. At the same time, the proposals will dramatically reduce Europe's dependence on imported oil and cut carbon emissions in transport by 60% by 2050. According to the White Paper, a necessary condition for establishing a Single European Transport Area is the creation of Single European *Railway Area*, which can be done by completing the process of market liberalisation, including giving the European Rail Agency a stronger role in the field of rail safety, in particular in terms of supervising national safety measures and working towards their progressive harmonisation.

The availability of detailed and timely rail transport statistics is becoming increasingly important given the growing momentum of evidence-based policy making in the Commission and the need to monitor progress towards the goals set out in the White Paper.

Eurostat's rail transport statistics are predominantly based on Regulation (EC) No 91/2003 of the European Parliament and of the Council (16 December 2002), Commission Regulation (EC) No 1192/2003 and Commission Regulation (EC) No 332/2007. These Regulations cover passenger and freight transport by rail, as well as rail safety.

The Commission needs statistics on the transport of goods and passengers by rail in order to monitor and develop the common transport policy.

Detailed rail transport statistics for goods and passengers and information on intermodality are necessary to monitor the targets set in the 2011 Commission's White Paper.

Simplified reporting for goods and passengers presents only aggregated figures (total goods transported by type of goods and total passengers transported). There are no detailed breakdowns of, for example: country of embarkation/loading country, and country of disembarkation/unloading country; goods transported in intermodal transport units, by type of transport and by type of transport unit; goods transported, by category of dangerous goods; and the number of loaded intermodal transport units carried, by type of transport and by type of transport unit.

Accidents have become a priority issue in EU transport policy, together with the other undesirable effects of transport: congestion, pollution, noise and CO<sub>2</sub> emissions. Consequently it has become important to collect and disseminate data on accidents, fatalities, serious injuries and damage caused to the environment (by spillage of dangerous goods transported) in all modes of transport: road, rail, inland waterways, sea and air.

Rail accident data have so far been collected under Regulation (EC) No 91/2003 on rail freight transport; they are also collected by the European Railways Agency (ERA) under the Statistical Annex to Directive 2009/149/EC on rail safety.

In line with the requirement that official statistics should be relevant, i.e. that they should satisfy current and potential user needs, the proposal revises the current legal basis and further simplifies the requirements for data provision.

Due account is also taken of the necessary trade-off between user needs and the burden on respondents and national statistical institutes.

A technical analysis of the data collected under the European legislation on rail transport statistics and of the dissemination policy has been carried out at European level, in order to propose possible technical solutions to simplify as much as possible the various activities necessary for statistical production, while keeping the final output in line with present and future user needs.

The aim of this proposal is thus to modify Regulation (EC) No 91/2003 in order to update, simplify and optimise the existing legal framework for European statistics on rail transport and to align it with the new institutional context.

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

At the beginning of 2010, a Task Force on Rail Transport Statistics was charged with carrying out a technical analysis of the existing policy on data collection and dissemination, under the European legislation on rail transport statistics. The Task Force members were all experts with specific knowledge of the existing legislation and the national systems for collecting and compiling rail transport statistics and new trends in the development of rail transport.

The Task Force produced a proposal to simplify Regulation (EC) No 91/2003. The effect of the proposal will be to reduce the burden on Member States and respondents without any significant loss in the quality of data for the transport of goods and passengers by rail and to improve the timelines for disseminating passenger rail data.

The proposal has been discussed with data producers and users on a technical level, in working groups on rail transport statistics and the Coordinating Group for Statistics on Transport, in the context of the European Statistical System. There have also been consultations within the Commission with DG MOVE.

This proposal is the result of in-depth negotiations between all interested parties.

## **3. LEGAL ELEMENTS OF THE PROPOSAL**

The proposal covers the following changes:

### **(1) Data on transport of passengers**

In line with Annexes C and D to Regulation (EC) 91/2003 on rail transport statistics, countries are currently required to provide annual statistics on passenger transport, under detailed and/or simplified reporting. The way that passenger transport data are currently disseminated is considered ambiguous and inconsistent due to the deadlines for transmitting tables being different for simplified and detailed reporting. Moreover, some provisional data (Tables C1 and C2) and optional figures (Table C1

— passenger-km) for passenger transport must be provided within the same deadline as simplified data — eight months after the end of the reference period.

It is proposed to delete Annex D (simplified reporting) and the provisional Tables C1 and C2 in Annex C, while shortening the deadline for providing the final passenger data from 14 months to eight months after the end of the reference period. Data will thus be available sooner.

(2) Data on transport of goods

In the interests of consistency, it is also proposed to delete Annex B (simplified reporting).

(3) New Annex

As it is proposed to abandon the current concept of ‘simplified’ reporting, for the smallest undertakings below the specified thresholds, Member States would have to report a ‘total’ figure for aggregated indicators in Annex L.

(4) Data on accidents

As data on accidents are also collected by the European Rail Agency, it is proposed to delete Annex H (statistics on accidents).

(5) Annex I

As the concept of ‘simplified’ reporting will disappear, it is proposed to delete this Annex as it is currently used only to validate coverage between simplified and detailed reporting in relation to the total rail activity of undertakings.

(6) Thresholds

The present thresholds are established for tonne-km and passenger-km, i.e. multiplication of tonnes/passengers transported and the distance covered in kilometres.

As significant rail activity involves only small distances in some Member States, it is proposed to decrease the thresholds both for goods and passengers, in order to minimise the loss of important data. For the same reason, a double threshold in tonnes transported and in tonne-km is proposed for goods.

(7) Transit data

For harmonisation reasons, it is proposed that ‘Rail Waybill’ information (if available) be used when administrative data are used as the data source.

(8) In connection with the adoption of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the

Commission's exercise of implementing powers<sup>1</sup>, the Commission has committed itself<sup>2</sup> to reviewing legislative acts that currently contain references to the regulatory procedure with scrutiny, in order to adapt them to the criteria laid down in the Treaty.

- (9) Finally, the proposed amendment of Regulation (EC) No 91/2003 takes into account the necessary adjustments to the Treaty on the Functioning of the European Union as regards granting the Commission delegated and implementing powers. The Treaty on the Functioning of the European Union ('the Treaty'), makes a distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act as laid down in Article 290(1) of the TFEU (delegated acts), and the powers conferred on the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in Article 291(2) of the TFEU (implementing acts).

#### **4. BUDGETARY IMPLICATION**

The proposal has no implications for the Union budget.

#### **5. ADDITIONAL INFORMATION**

The adoption of the proposal will not lead to existing legislation being repealed.

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<sup>1</sup> OJ L 55, 28.2.2011, p. 13.

<sup>2</sup> OJ L 55, 28.2.2011, p. 19.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, as regards the collection of data on goods, passengers and accidents**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 338(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics<sup>3</sup> establishes a common framework for producing, transmitting, evaluating and disseminating comparable rail transport statistics in the Union.
- (2) Statistics on the transport of goods and passengers by rail are necessary to enable the Commission to monitor and develop the common transport policy, and the transport elements of policies on the regions and on trans-European networks.
- (3) Statistics on rail safety are also necessary to enable the Commission to prepare and monitor Union action in the field of transport safety. The European Rail Agency collects data on accidents under the Statistical Annex to Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways as regards common safety indicators and common methods of calculating accident costs.
- (4) Most Member States transmitting passenger data to the Commission (Eurostat) under Regulation (EC) No 91/2003 have regularly provided the same data for both the provisional and final datasets.
- (5) There should be a balance between the needs of the users and the burden on respondents when producing European statistics.

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<sup>3</sup> Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics, OJ L 14, 21.1.2003, p. 1.

- (6) Eurostat has conducted a technical analysis of the existing data on rail statistics collected under the Union legislation and of the dissemination policy, within its Working Group and Task Force on rail transport statistics, to simplify as much as possible the various activities necessary for producing statistics, while keeping the final output in line with present and future user needs.
- (7) In its report to the European Parliament and the Council on the experience acquired in the application of the Regulation (EC) No 91/2003, the Commission mentions that long term developments will probably mean the suppression or simplification of the data already collected under the Regulation, and that the intention is to reduce the data transmission period for annual data on rail passengers.
- (8) Regulation (EC) No 91/2003 confers powers on the Commission to implement some of the provisions of this Regulation. As a consequence of the entry into force of the Treaty on the Functioning of the European Union ('the Treaty'), the powers conferred on the Commission under this Regulation need to be aligned with Articles 290 and 291 of the Treaty.
- (9) In order to reflect new developments in the Member States but at the same time to maintain harmonised rail data collection across the Union and with a view to maintaining the high quality of the data transmitted by the Member States, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission, with a view to adapting the definitions and thresholds for reporting and the contents of the Annexes, and to specifying the information to be supplied.
- (10) It is particularly important that the Commission carry out the appropriate consultations during its preparatory work, including at expert level. The Commission should, when preparing and drawing up delegated acts, ensure simultaneous, timely and appropriate submission of the relevant documents to the European Parliament and to the Council.
- (11) The Commission should ensure that these delegated acts do not impose a significant additional administrative burden on the Member States and on the respondents.
- (12) In order to ensure uniform conditions for implementation of Regulation (EC) No 91/2003, implementing powers should be conferred on the Commission as regards the specification of information to be supplied for the reports on the quality and comparability of the results. These powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>4</sup>.
- (13) The European Statistical System Committee has been consulted.
- (14) Regulation (EC) No 91/2003 should therefore be amended accordingly,

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<sup>4</sup> OJ L 55, 28.2.2011, p. 13.



HAVE ADOPTED THIS REGULATION:

*Article 1*

Regulation (EC) No 91/2003 is amended as follows:

(1) Article 3 is amended as follows:

(a) In paragraph 1 points 24-30 are deleted.

(b) Paragraph 2 is replaced by the following:

‘2. The Commission shall be empowered to adopt, in accordance with Article 10, delegated acts to adapt the technical definitions referred to in paragraph 1 and to provide additional definitions when needed to take into account new developments which require a certain level of technical detail to be defined in order to ensure harmonisation of statistics.’

(2) Article 4 is amended as follows:

(a) In paragraph 1, points b, d and h are deleted.

(b) Paragraph 2 is replaced by the following:

‘2. Under Annexes A and C, Member States shall report data for undertakings:

(a) whose total volume of goods transport is at least 200 million tonne-km or at least 500 000 tonnes;

(b) whose total volume of passenger transport is at least 100 million passenger-km.

(c) Reporting in Annex A and Annex C is optional below these thresholds.’

(c) Paragraph 3 is replaced by the following:

‘3. Under Annex L, Member States shall provide the total data for undertakings below the threshold referred to in paragraph 2 if these data are not reported under Annexes A and C, as specified in Annex L.’

(d) Paragraph 5 is replaced by the following:

‘5. The Commission shall be empowered to adopt delegated acts, in accordance with Article 10, concerning the adaptation of the contents of the Annexes and the thresholds for reporting as referred to in paragraphs 1 and 3, in order to take account of economic and technical developments.’

(e) The following paragraph 6 is added:

‘6. When exercising its power pursuant to this paragraph, the Commission shall ensure that the delegated acts adopted do not impose a significant additional administrative burden on the Member States and on the respondents.’

(3) In Article 5 (2) point b is replaced by the following:

‘(b) administrative data, including data collected by regulatory authorities, in particular the rail freight waybill if available’.

(4) Article 7 is replaced by the following:

‘Article 7

Dissemination

Statistics based on the data specified in Annexes A, C, E, F, G and L shall be disseminated by the Commission (Eurostat).

(5) In Article 8, paragraphs 3 and 4 are added:

‘3. For the purposes of this Regulation, the quality criteria to be applied to the data to be transmitted are those referred to in Article 12(1) of Regulation (EC) No 223/2009.

4. The Commission shall, by means of implementing acts, specify the modalities, structure, periodicity and comparability elements for the standard quality reports. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11.’

(6) Article 9 is deleted.

(7) Article 10 is replaced by the following:

‘Article 10

Exercise of the delegation

1. The power to adopt delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 3(2) and 4(5) shall be conferred on the Commission for an indeterminate period of time from [Publications office: please insert the exact date of the entry into force of the amending Regulation].
3. The delegation of power referred to in Articles 3(2) and 4(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 3(2) and 4(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.'

(8) Article 11 is replaced by the following:

‘Article 11

Committee

1. The Commission shall be assisted by the European Statistical System Committee, established by Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European Statistics. That Committee shall be a committee within the meaning of Regulation (EU) No182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission’s exercise of implementing powers.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.’

(9) Article 12 is deleted.

(10) Annexes B, D, H and I are deleted.

(11) Annex C is replaced as set out in the Annex to this Regulation.

(12) Annex L is added as set out in the Annex to this Regulation.

*Article 2*

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

ANNEX

'Annex C'

ANNUAL STATISTICS ON PASSENGER TRANSPORT — DETAILED REPORTING	
List of variables and units of measurement	Passengers transported in: <ul style="list-style-type: none"><li>– number of passengers</li><li>– passenger-km</li></ul> Passenger train movements in: <ul style="list-style-type: none"><li>– train-km</li></ul>
Reference period	Year
Frequency	Every year
List of tables with the breakdown for each table	Table C3: passengers transported, by type of transport Table C4: international passengers transported, by country of embarkation and by country of disembarkation Table C5: passenger train movements
Deadline for transmission of data	Eight months after end of reference period.
First reference period	2012
Notes	1. Type of transport is broken down as follows: <ul style="list-style-type: none"><li>– national</li><li>– international</li></ul> 2. For Tables C3 and C4, Member States shall report data including information from ticket sales outside the reporting country. This information may be obtained either directly from the national authorities of other countries or through international compensation arrangements for tickets.

**‘Annex L’**

**Table L.1**

LEVEL OF TRANSPORT ACTIVITY IN GOODS TRANSPORT	
List of variables and units of measurement	Goods transported in: - total tonnes - total tonne-km Goods train movements in: - total train-km
Reference period	One year
Frequency	Every year
Deadline for transmission of data	Five months after end of reference period
First reference period	201X
Notes	Only for undertakings with a total volume of freight transport of less than 200 million tonne-km and less than 500 000 tonnes and not reporting under Annex A (detailed reporting)

**Table L.2**

LEVEL OF TRANSPORT ACTIVITY IN PASSENGER TRANSPORT	
List of variables and units of measurement	Passengers transported in: - total passengers - total passenger-km Passenger train movements in: - total train-km
Reference period	One year
Frequency	Every year
Deadline for transmission of data	Eight months after end of reference period
First reference period	201X
Notes	Only for undertakings with a total volume of passenger transport of less than 100 million passenger-km and not reporting under Annex C (detailed reporting)