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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	30 June 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 353 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on rail transport statistics (recast)

Delegations will find attached document COM(2017) 353 final.

Encl.: COM(2017) 353 final



Brussels, 30.6.2017
COM(2017) 353 final

2017/0146 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on rail transport statistics (recast)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided¹ to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

4. The purpose of this proposal is to undertake a codification of Regulation (EC) No 91/2003 of the European Parliament and of the Council of 16 December 2002 on rail transport statistics³. The new Regulation will supersede the various acts incorporated in it⁴, fully preserving the content of the acts being codified. At the same time, it is also necessary to make a substantive amendment to Article 4(5) of that Regulation. Therefore, the proposal is being presented in the form of a recast.
5. The recast proposal was drawn up on the basis of a preliminary consolidation, in 24 official languages, of Regulation (EC) No 91/2003 and the instruments amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex X to the recast Regulation.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Entered in the legislative programme for 2017.

⁴ See Annex IX to this proposal.

↓ 91/2003 (adapted)

2017/0146 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on rail transport statistics (recast)

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,

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

↓ new

(1) Regulation (EC) No 91/2003 of the European Parliament and of the Council⁶ has been substantially amended several times⁷. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

↓ 91/2003 recital 1 (adapted)

(2) Railways are an important part of the Union's transport networks.

↓ 2016/2032 recital 2

(3) Statistics on the transport of goods and passengers by rail are necessary to enable the Commission to monitor and develop the common transport policy, as well as the transport elements of policies relating to the regions and to trans-European networks.

⁵ OJ C [...], [...], p. [...].

⁶ 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).

⁷ See Annex IX.

↓ 2016/2032 recital 3

- (4) 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 Union Agency for Railways collects data on accidents under Annex I to Directive 2004/49/EC of the European Parliament and of the Council⁸ as regards common safety indicators and common methods of calculating accident costs.

↓ 91/2003 recital 4 (adapted)

- (5) Statistics at Union level on rail transport are also required in order to fulfil the monitoring tasks provided for in Article 15 of Directive 2012/34/EU of the European Parliament and of the Council⁹.

↓ 91/2003 recital 5 (adapted)

- (6) Statistics at Union level on all modes of transport should be collected according to common concepts and standards, with the aim of achieving the fullest practicable comparability between transport modes.

↓ 2016/2032 recital 4

- (7) It is important to avoid duplication of work and to optimise the use of existing information that is capable of being used for statistical purposes. To that end, and with a view to providing easily accessible and useful information to Union citizens and other stakeholders on rail transport safety and interoperability of the rail system, including the rail infrastructure, appropriate cooperation agreements on statistical activities should be established between the Commission's services and relevant entities, including at international level.

↓ 2016/2032 recital 6

- (8) A balance should be struck between the needs of the users and the burden on respondents when producing European statistics.

↓ 2016/2032 recital 8

- (9) In its report to the European Parliament and to the Council on its experience acquired in applying Regulation (EC) No 91/2003, the Commission referred to the fact that long-term developments will probably result in the suppression or the simplification of the data already collected under that Regulation, and that the aim is to reduce the data transmission period for annual data on rail passengers. The Commission should

⁸ Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive) (OJ L 164, 30.4.2004, p. 44).

⁹ Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32).

continue to provide reports at regular intervals on the implementation of this Regulation.

↓ 91/2003 recital 7

- (10) The coexistence of publicly and privately owned railway undertakings operating in a commercial rail transport market requires an explicit specification of the statistical information which should be provided by all railway undertakings and disseminated by Eurostat.
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↓ 91/2003 recital 8 (adapted)

- (11) In accordance with the principle of subsidiarity laid down in Article 5 of the Treaty ~~on~~ European Union ~~in~~, the creation of common statistical standards which permit the production of harmonised data is an action which can only be undertaken efficiently at ~~the~~ Union ~~level~~. Such standards should be implemented in each Member State under the authority of the bodies and institutions in charge of producing official statistics.
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↓ 91/2003 recital 9

- (12) Regulation (EC) No 223/2009 of the European Parliament and of the Council¹⁰ provides a reference framework for the provisions laid down by this Regulation.
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↓ 2016/2032 recital 10 (adapted)

- (13) In order to reflect new developments in the Member States while, at the same time, maintaining the harmonised collection of rail transport data 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 ~~on~~ the Functioning of the European Union ~~in~~ should be delegated to the Commission in respect of amending this Regulation to adapt the technical definitions and to provide for additional technical definitions. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹¹. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹⁰ Regulation (EC) No 223/2009 of the European Parliament and of the Council of 11 March 2009 on European statistics and repealing Regulation (EC, Euratom) No 1101/2008 of the European Parliament and of the Council on the transmission of data subject to statistical confidentiality to the Statistical Office of the European Communities, Council Regulation (EC) No 322/97 on Community Statistics, and Council Decision 89/382/EEC, Euratom establishing a Committee on the Statistical Programmes of the European Communities (OJ L 87, 31.3.2009, p. 164).

¹¹ OJ L 123, 12.5.2016, p. 1.

↓ 2016/2032 recital 11

- (14) The Commission should ensure that those delegated acts do not impose a significant additional burden on the Member States or on the respondents.

↓ 2016/2032 recital 12

- (15) In order to ensure uniform conditions for implementation of this Regulation, implementing powers should be conferred on the Commission as regards the specification of the information to be supplied for the reports on the quality and comparability of the results, and the arrangements for the dissemination of those results by the Commission (Eurostat). Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².

↓ 2016/2032 recital 13

- (16) The European Statistical System Committee has been consulted,

↓ 91/2003 (adapted)

HAVE ADOPTED THIS REGULATION:

Article 1

Objective

The objective of this Regulation is to establish common rules for the production of rail transport statistics at Union level .

Article 2

Scope

This Regulation shall cover all railways in the Union . Each Member State shall report statistics which relate to rail transport on its national territory. Where a railway undertaking operates in more than one Member State, the national authorities concerned shall require the undertaking to provide data separately for each country in which it operates so as to enable national statistics to be compiled.

Member States may exclude from the scope of this Regulation:

- (a) railway undertakings which operate entirely or mainly within industrial and similar installations, including harbours;

¹² 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 (OJ L 55, 28.2.2011, p. 13).

- (b) railway undertakings which mainly provide local tourist services, such as preserved historical steam railways.

Article 3

Definitions

↓ 1192/2003 Art. 1.1 (adapted)

1. For the purposes of this Regulation, the following definitions shall apply:

- (1) 'reporting country' means the Member State transmitting data to Eurostat;
- (2) 'national authorities' means national statistical institutes and other bodies responsible in each Member State for producing European statistics;
- (3) 'railway' means a line of communication made up by rail exclusively for the use of railway vehicles;
- (4) 'railway vehicle' means mobile equipment running exclusively on rails, moving either under its own power (tractive vehicles) or hauled by another vehicle (coaches, railcar trailers, vans and wagons);
- (5) 'railway undertaking' means any public or private undertaking which provides services for the transport of goods and/or passengers by rail. Undertakings whose only business is to provide services for the transport of passengers by metro, tram and/or light rail are excluded;
- (6) 'transport of goods by rail' means the movement of goods using railway vehicles between the place of loading and the place of unloading;
- (7) 'transport of passengers by rail' means the movement of passengers using railway vehicles between the place of embarkation and the place of disembarkation. The transport of passengers by metro, tram and/or light rail is excluded;
- (8) 'metro' (also known as 'subway', 'metropolitan railway' or 'underground') means an electric railway for the transport of passengers with the capacity for a heavy volume of traffic and characterised by exclusive rights-of-way, multi-car trains, high speed and rapid acceleration, sophisticated signalling as well as the absence of level crossings to allow a high frequency of trains and high platform load. Metros are also characterised by closely spaced stations, normally meaning a distance of 700 to 1 200 m between the stations. 'High speed' refers to the comparison with trams and light rail, and means here approximately 30 to 40 km/h on shorter distances, 40 to 70 km/h on longer distances;
- (9) 'tram (streetcar)' means a passenger road vehicle designed to seat more than nine persons (including the driver), which is connected to electric conductors or powered by diesel engine and which is rail-borne;
- (10) 'light rail' means a railway for the transport of passengers that often uses electrically powered rail-borne cars operating singly or in short trains on fixed duo-rail lines.

There is generally a distance of less than 1 200 m between stations/stops. In comparison to metros, light rail is more lightly constructed, is designed for lower traffic volumes and usually travels at lower speeds. It is sometimes difficult to make a precise distinction between light rail and trams; trams are generally not separated from road traffic, whereas light rail may be separated from other systems;

- (11) 'national transport' means rail transport between two places (a place of loading/embarkation and a place of unloading/disembarkation) located in the reporting country. It may involve transit through a second country;
- (12) 'international transport' means rail transport between a place (of loading/embarkation or unloading/disembarkation) in the reporting country and a place (of loading/embarkation or unloading/disembarkation) in another country;
- (13) 'transit' means rail transport through the reporting country between two places (a place of loading/embarkation and a place of unloading/disembarkation) outside the reporting country. Transport operations involving loading/embarkation or unloading/disembarkation of goods/passengers at the border of the reporting country from/onto another mode of transport are not considered as transit;
- (14) 'rail passenger' means any person, excluding members of the train crew, who makes a trip by rail. For accident statistics, passengers trying to embark/disembark onto/from a moving train are included;
- (15) 'number of passengers' means the number of trips by rail passengers, where each trip is defined as the movement from the place of embarkation to the place of disembarkation, with or without transfers from one rail vehicle to another. If passengers use the services of more than one railway undertaking, when possible they shall not be counted more than once;
- (16) 'passenger-km' means the unit of measure representing the transport of one passenger by rail over a distance of one kilometre. Only the distance on the national territory of the reporting country shall be taken into account;
- (17) 'weight' means the quantity of goods in tonnes (1 000 kilograms). The weight to be taken into consideration includes, in addition to the weight of the goods transported, the weight of packaging and the tare weight of containers, swap bodies, pallets as well as road vehicles transported by rail in the course of combined transport operations. If the goods are transported using the services of more than one railway undertaking, when possible the weight of goods shall not be counted more than once;
- (18) 'tonne-km' means the unit of measure of goods transport which represents the transport of one tonne (1 000 kilograms) of goods by rail over a distance of one kilometre. Only the distance on the national territory of the reporting country shall be taken into account;
- (19) 'train' means one or more railway vehicles hauled by one or more locomotives or railcars, or one railcar travelling alone, running under a given number or specific designation from an initial fixed point to a terminal fixed point. A light engine, that is to say, a locomotive travelling on its own, is not considered to be a train;

- (20) ‘train-km’ means the unit of measure representing the movement of a train over one kilometre. The distance used is the distance actually run, if available, otherwise the standard network distance between the origin and destination shall be used. Only the distance on the national territory of the reporting country shall be taken into account;
- (21) ‘full train load’ means any consignment comprising one or more wagonloads transported at the same time by the same sender at the same station and forwarded with no change in train composition to the address of the same consignee at the same destination station;
- (22) ‘full wagon load’ means any consignment of goods for which the exclusive use of a wagon is required, whether or not the total loading capacity is utilised;
- (23) ‘TEU (Twenty-foot Equivalent Unit)’ means a standard unit based on an ISO container of 20 feet length (6,10 m), used as a statistical measure of traffic flows or capacities. One standard 40’ ISO Series 1 container equals 2 TEUs. Swap bodies under 20 feet correspond to 0,75 TEU, between 20 feet and 40 feet to 1,5 TEU and over 40 feet to 2,25 TEU.

↓ 2016/2032 Art. 1.1(b) (adapted)

2. The Commission is empowered to adopt delegated acts in accordance with Article 10 concerning the amendment of ~~☒~~ this ~~☒~~ Article to adapt the technical definitions set out in points 8, 9, 10, 21, 22 and 23 of paragraph 1 and to provide for additional technical definitions, when needed to take into account new developments which require a certain level of technical detail to be defined in order to ensure the harmonisation of statistics.

When exercising that power the Commission shall ensure that the delegated acts do not impose a significant additional burden on the Member States or on the respondents. Furthermore, the Commission shall duly justify the statistical actions for which those delegated acts provide, using, where appropriate, cost-effectiveness analysis, including an assessment of the burden on respondents and of the production costs, as referred to in Article 14(3)(c) of Regulation (EC) No 223/2009.

↓ 91/2003

Article 4

Data collection

1. The statistics to be collected are set out in the Annexes to this Regulation. They shall cover the following types of data:

- (a) annual statistics on goods transport — detailed reporting (Annex I);
- (b) annual statistics on passenger transport — detailed reporting (Annex II);
- (c) quarterly statistics on goods and passenger transport (Annex III);
- (d) regional statistics on goods and passenger transport (Annex IV);

(e) statistics on traffic flows on the rail network (Annex V).

↓ 2016/2032 Art. 1.2(b)

2. Member States shall report under Annexes I and II data for undertakings that have:

- (a) a total volume of goods transport of at least 200 000 000 tonne-km or at least 500 000 tonnes;
- (b) a total volume of passenger transport of at least 100 000 000 passenger-km.

Reporting under Annexes I and II shall be optional in respect of undertakings falling below the thresholds referred to in points (a) and (b).

↓ 2016/2032 Art. 1.2(c)

3. Member States shall report under Annex VIII the total data for undertakings falling below the thresholds referred to in paragraph 2 if those data are not reported under Annexes I and II, as specified in Annex VIII.

↓ 91/2003

4. For the purposes of this Regulation, goods shall be classified in accordance with Annex VI. Dangerous goods shall additionally be classified in accordance with Annex VII.

↓ 219/2009 Art. 1 and Annex .4(4)

~~5. The contents of the Annexes may be adapted by the Commission. Those measures, designed to amend non-essential elements of this Regulation, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3).~~

↓ 91/2003 (adapted)

Article 5

Data sources

1. Member States shall designate a public or private organisation to participate in collecting the data required in accordance with this Regulation.

2. The necessary data may be obtained using any combination of the following sources:

- (a) compulsory surveys;
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↓ 2016/2032 Art. 1.3

- (b) administrative data, including data collected by regulatory authorities, in particular the rail freight waybill if one is available;

↓ 91/2003 (adapted)

- (c) statistical estimation procedures;
- (d) data supplied by professional organisations in the rail industry;
- (e) *ad hoc* studies.

3. The national authorities shall take measures for the coordination of the data sources used and to ensure the quality of the statistics transmitted to Eurostat.

Article 6

Transmission of statistics to Eurostat

1. Member States shall transmit to Eurostat the statistics referred to in Article 4.

2. The arrangements for the transmission of the statistics referred to in Article 4 shall be laid down in accordance with the examination procedure referred to in Article 11(2).

↓ 2016/2032 Art. 1.4

Article 7

Dissemination

Statistics based on the data specified in Annexes I to V and VIII shall be disseminated by the Commission (Eurostat).

The Commission shall adopt implementing acts laying down the arrangements for the dissemination of results. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

↓ 91/2003

Article 8

Quality of statistics

1. In order to assist Member States in maintaining the quality of statistics in the domain of rail transport, Eurostat shall develop and publish methodological recommendations. These recommendations shall take account of the best practices of national authorities, of railway undertakings and of professional organisations for the railway industry.

↓ 2016/2032 Art. 1.5(a)

2. Member States shall take all measures necessary to ensure the quality of the data transmitted.

↓ 91/2003

3. The quality of the statistical data shall be evaluated by Eurostat. To this end, on request by Eurostat, Member States shall supply information on the methods used in producing the statistics.

↓ 2016/2032 Art. 1.5(b)

4. 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.

5. The Commission shall adopt implementing acts specifying the detailed arrangements, structure, periodicity and comparability elements for the standard quality reports. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 11(2).

↓ 2016/2032 Art. 1.6

Article 9

Reports on implementation

By 31 December 2020 and every four years thereafter, the Commission, after consulting the European Statistical System Committee, shall submit a report to the European Parliament and to the Council on the implementation of this Regulation and on future developments.

In that report, the Commission shall take account of relevant information provided by Member States relating to the quality of the data transmitted, the data collection methods used and information on potential improvements and on users' needs.

In particular, that report shall:

- (a) assess the benefits, accruing to the Union, the Member States and the providers and users of statistical information, of the statistics produced, in relation to their costs;
- (b) assess the quality of the data transmitted, the data collection methods used and the quality of the statistics produced.

Article 10

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 3(2) shall be conferred on the Commission for a period of five years from 13 December 2016. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 3(2) 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 3(2) 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.

Article 11

Committee procedure

1. The Commission shall be assisted by the European Statistical System Committee established by Regulation (EC) No 223/2009. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.



Article 12

Repeal

Regulation (EC) No 91/2003 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex X.

↓ 91/2003 (adapted)

Article 13

Entry into force

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,

*For the European Parliament
The President*

*For the Council
The President*