



Council of the
European Union

Brussels, 3 July 2024
(OR. en)

10678/24

Interinstitutional File:
2023/0271(COD)

CODEC 1438
TRANS 275
PE 169

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the use of railway infrastructure capacity in the single European railway area, amending Directive 2012/34/EU and repealing Regulation (EU) No 913/2010 - Outcome of the European Parliament's first reading (Strasbourg, 11 to 14 March 2024)

I. INTRODUCTION

The rapporteur, Tilly METZ (Greens/EFA, LU), presented a report on the above proposal for a Regulation on behalf of the Committee on Transport and Tourism (TRAN) which contained 263 amendments (amendments 1 to 263) to the proposal. No other amendment was tabled.

II. VOTE

When it voted on 12 March 2024, the plenary of the European Parliament adopted amendments 1 to 263 to the proposal for a Regulation.

The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto.

P9_TA(2024)0127

Use of railway infrastructure capacity in the single European railway area, amending Directive 2012/34/EU and repealing Regulation (EU) No 913/2010

European Parliament legislative resolution of 12 March 2024 on the proposal for a regulation of the European Parliament and of the Council on the use of railway infrastructure capacity in the single European railway area, amending Directive 2012/34/EU and repealing Regulation (EU) No 913/2010 (COM(2023)0443 – C9-0304/2023 – 2023/0271(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)0443),
 - having regard to Article 294(2) and Article 91 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0304/2023),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 25 October 2023¹,
 - having regard to the opinion of the Committee of the Regions of 1 February 2024²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A9-0069/2024),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

¹ OJ C, C/2024/891, 6.2.2024, ELI: <http://data.europa.eu/eli/C/2024/891/oj>.

² Not yet published in the Official Journal.

Amendment 1
Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The Communication on Sustainable and Smart Mobility Strategy¹⁵ sets out milestones to show the Union transport system's path towards achieving the objectives of a sustainable, smart and resilient mobility. It envisages that rail freight traffic should increase by 50% by 2030 and double by 2050; traffic on high-speed rail should double by 2030 and triple by 2050 and scheduled collective travel under 500 km should be carbon-neutral by 2030 within the Union. To achieve these goals, rail transport must become more attractive in terms of affordability, reliability, and services better adapted to the needs of travellers and freight shippers.

¹⁵ Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions 'Sustainable and Smart Mobility Strategy – putting European transport on track for the future', COM(2020) 789 final of 9 December 2020.

Amendment 2
Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2) The Communication on Sustainable and Smart Mobility Strategy¹⁵ sets out milestones to show the Union transport system's path towards achieving the objectives of a sustainable, smart and resilient mobility. It envisages that rail freight traffic should increase by 50% by 2030 and double by 2050; traffic on high-speed rail should double by 2030 and triple by 2050 and scheduled collective travel under 500 km should be carbon-neutral by 2030 within the Union. To achieve these goals, rail transport must become more attractive in terms of affordability, reliability **and accessibility**, and services **must be** better adapted to the needs of travellers and freight shippers.

¹⁵ Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions 'Sustainable and Smart Mobility Strategy – putting European transport on track for the future', COM(2020) 789 final of 9 December 2020.

(2 a) The underlying aim of this Regulation is to increase the utilisation of the rail infrastructure and thereby increase the modal share of rail. However, this Regulation alone cannot address Union's decarbonisation and modal shift targets by. Both Member

States and the Commission should continue to work on numerous other elements that can help to further increase both rail infrastructure capacity and transport capacity, such as the bundling of train paths, speed harmonisation, efficient passenger changeover, the use of longer trains with increased axle load, the roll-out of harmonised ERTMS across Europe, as well as automated trains operation.

Amendment 3
Proposal for a regulation
Recital 2 b (new)

Text proposed by the Commission

Amendment

(2 b) Tackling the efficiency of rail in order to increase the multi-modal competitive aspect between different transport modes is important to facilitate a substantial modal shift and to reach the targets set in the Sustainable and Smart Mobility Strategy. Therefore, further measures to increase the competitiveness by rail, such as lower track access charges, should also be considered. With an increased demand for rail capacity by both passenger and freight services, investments will also be needed to realise those capacity enhancing measures.

Amendment 4
Proposal for a regulation
Recital 2 d (new)

Text proposed by the Commission

Amendment

(2d) Shift-to-rail objectives on EU level require national targets based on concrete national plans developed by Member States following bottom-up approach.

Amendment 5
Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) Rail infrastructure capacity and traffic management are crucial to the well-functioning of the rail sector. The operation of rail transport services needs to be carefully planned and coordinated to allow trains with very different characteristics, such as speed and braking distance, to share safely the same tracks. Optimal management of capacity creates more opportunities for, and increases reliability of, rail services. Regulation should provide infrastructure managers with sufficient flexibility for effective management of capacity while making sure that all railway undertakings are treated without discrimination in their access to the network.

Amendment

(5) Rail infrastructure capacity **management** and **rail** traffic management are crucial to the well-functioning of the rail sector. The operation of rail transport services needs to be carefully planned and coordinated to allow trains with very different characteristics, such as speed and braking distance, to share safely the same tracks. Optimal management of capacity creates more opportunities for, and increases reliability of, rail services, **which is a particularly important requirement for the increasing market of night trains as well as the ambitions to shift goods to rail freight**. Regulation should provide infrastructure managers with sufficient flexibility for effective management of capacity while making sure that all railway undertakings are treated without discrimination in their access to the network.

Amendment 6
Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Directive 2012/34/EU recognises the right of Member States not to apply the rules on rail infrastructure capacity allocation to certain parts of the rail network or to certain rail services, where such an exclusion from the scope of Union law would not affect the functioning of the single European railway area. These exclusions should continue to apply and Member States should retain the right to request such exclusions in the future also in relation to this Regulation.

Amendment

(6) Directive 2012/34/EU recognises the right of Member States not to apply the rules on rail infrastructure capacity allocation to certain parts of the rail network or to certain rail services, where such an exclusion from the scope of Union law would not affect the functioning of the single European railway area. These exclusions, **while being strictly limited**, should continue to apply and Member States should retain the right to request such exclusions in the future also in relation to this Regulation.

Amendment 7
Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) The rules and procedures on the management of rail infrastructure capacity should **reflect better** the needs of all rail market segments. They should in particular take into account the necessity of long-term stability of available capacity for passenger services and of short-term flexibility for freight traffic to respond to market demand. Therefore, the process of managing capacity should no longer have a predominantly annual focus, but be arranged in three subsequent phases of strategic capacity planning; rail service scheduling and capacity allocation; and adaptation and rescheduling of capacity. The introduction of better defined and structured phases that provide for the possibility of long-term planning and short-term adaptation in capacity management, would particularly benefit services that are less easy to plan in advance or are more complex to arrange, such as freight trains and cross-border passenger trains.

Amendment 8
Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) An increasing portion of the Union rail network is either congested or close to congested and cannot accommodate the needs for rail infrastructure capacity of all applicants and support further growth in the volume of rail transport. Infrastructure development and digitalisation, in compliance with the technical specification for interoperability developed under Directive (EU) 2016/797 of the European

Amendment

(7) The rules and procedures on the management of rail infrastructure capacity should **consider and satisfy** the needs of all rail market segments **in a non-discriminatory way**. They should in particular take into account the necessity of long-term stability of available capacity for passenger services and of short-term flexibility for freight traffic to respond to market demand. Therefore, the process of managing capacity should no longer have a predominantly annual focus, but be arranged in three subsequent phases of strategic capacity planning; rail service scheduling and capacity allocation; and adaptation and rescheduling of capacity. The introduction of better defined and structured phases that provide for the possibility of long-term planning and short-term adaptation in capacity management, would particularly benefit services that are less easy to plan in advance or are more complex to arrange, such as freight trains and cross-border passenger trains, **including night trains**.

Amendment

(8) An increasing portion of the Union rail network is either congested or close to congested and cannot accommodate the needs for rail infrastructure capacity of all applicants and support further growth in the volume of rail transport. Infrastructure development and digitalisation, in compliance with the technical specification for interoperability developed under Directive (EU) 2016/797 of the European

Parliament and of the Council, in particular the European Rail Traffic Management System ('ERTMS'), is expected to result in an increase of available capacity in the medium to long term. Nevertheless, infrastructure managers will be required to assign priorities for the use of congested sections. Without prejudice to general principles on priority set out by Member States in the framework for the allocation of infrastructure capacity, infrastructure managers should take decisions on priorities using transparent and harmonised methodologies which clarify how social, economic and environmental factors have been taken into account and affect their decision.

Parliament and of the Council^{1a}, in particular the European Rail Traffic Management System ('ERTMS'), is expected to result in an increase of available capacity in the medium to long term. Nevertheless, infrastructure managers will be required to assign priorities for the use of congested sections. Without prejudice to general principles on priority set out by Member States in the framework for the allocation of infrastructure capacity, infrastructure managers should take decisions on priorities using transparent and harmonised methodologies which clarify how social, economic and environmental factors have been taken into account and affect their decision. ***These socio-economic and environmental criteria should be based on accepted methods and best available knowledge. Therefore, the Commission should be empowered to adopt a delegated act setting out the procedures, criteria and methodologies. When preparing that delegated act, the Commission should cooperate with European Network of Infrastructure Managers (ENIM) and European Union Agency for Railways (ERA) established by Regulation (EU) 2016/796.***

^{1a} ***Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).***

Amendment 9
Proposal for a regulation
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8 a) Existing rail infrastructure capacity is not sufficient for reaching Union's 2030 and 2050 shift-to-rail objectives. In fact, between 1990 and 2021 the railway

network in the Union shrank by over 12,000 km. Achieving the Union's modal shift objectives primarily hinges on increasing rail efficiency and bolstering rail capacity, the latter necessitating investments for the maintenance, renewal and new construction of rail infrastructure. This includes leveraging national budgets, the Connecting Europe Facility (CEF) established by Regulation (EU) 2021/1153 of the European Parliament and of the Council^{1a}, and private investments to address crucial missing links and alleviate bottlenecks, as well as obtaining appropriate levels of funding for maintenance. In particular, Member States should prevent the degrading of rail infrastructure and should minimise the impact of possible capacity restrictions by ensuring adequate, stable and timely long-term funding via multiannual performance agreements that should be concluded between Member State and the infrastructure manager for the period of at least five years.

^{1a} *Regulation (EU) 2021/1153 of the European Parliament and of the Council of 7 July 2021 establishing the Connecting Europe Facility and repealing Regulations (EU) No 1316/2013 and (EU) No 283/2014 (OJ L 249, 14.7.2021, p. 38).*

Amendment 10
Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) The strategic planning of capacity should improve the utilisation of rail infrastructure by anticipating demand for rail services and taking into account planned infrastructure development, renewal and maintenance. It should ensure that rail infrastructure capacity is allocated in a way that maximises the value of rail

Amendment

(9) The strategic planning of capacity should improve the utilisation of rail infrastructure by anticipating demand for rail services and taking into account planned infrastructure development, renewal and maintenance. It should ensure that rail infrastructure capacity is allocated in a way that maximises the value of rail

services for society. Infrastructure managers should ensure that strategic planning provides progressively increasing level of details about available capacity and that it is the basis for the capacity allocation.

services for society *taking into account socio-economic and environmental impacts*. Infrastructure managers should ensure that strategic planning provides progressively increasing level of details about available capacity and that it is the basis for the capacity allocation.

Applicants, European Railway Platform (ERP), customers of rail transport services and their associations, Union and national public authorities should be consulted during the strategic planning, and they should have an opportunity to provide input on study “the Analysis of expected transport market developments as referred to in Article 15” and to offer independent comments on the findings

Amendment 11
Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) When allocating capacity, infrastructure managers should adhere to the strategic plans for the supply of capacity and at the same time ensure that capacity is allocated in accordance with market demand in a fair and non-discriminatory way. For that purpose, some capacity requests may be refused and the plan for the supply of capacity must be regularly updated to reflect the actual demand.

Amendment

(11) When allocating capacity, infrastructure managers should adhere to the strategic plans for the supply of capacity and at the same time ensure that capacity is allocated in accordance with market demand in a fair and non-discriminatory way. For that purpose, some capacity requests may be *offered alternative capacity or, if no other possibility exists*, refused and the plan for the supply of capacity must be regularly updated to reflect the actual demand.

Amendment 12
Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11 a) *In several national rail markets, the infrastructure manager is part of a vertically integrated holding company with one or more passenger and*

freight transport operators. While allocating capacity to these rail undertakings, it is of the utmost importance for the proper functioning of the market that capacity is allocated in a fair, reasonable and non-discriminatory way. In particular, sensitive information shared with the infrastructure manager as part of the capacity allocation process should be considered as confidential.

Amendment 13
Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Different rail market segments have different abilities to anticipate their rail infrastructure capacity needs. Some freight service providers, in particular, may not be able to identify their capacity needs in time to be included in the working timetable, **that** is in the annual plan for train and rolling-stock movement, and may not fit in its annual schedule. Therefore, infrastructure managers should be able to offer capacity of sufficient quality and quantity also for rail services that have unstable demand, are organised on relatively short notice, include more than a single train run, and may run repeatedly for a period of time that may not coincide with the duration of the working timetable period.

Amendment

(12) Different rail market segments have different abilities to anticipate their rail infrastructure capacity needs. Some freight service providers, in particular, may not be able to identify their capacity needs in time to be included in the working timetable, **which** is in the annual plan for train and rolling-stock movement, and may not fit in its annual schedule. Therefore, infrastructure managers should be able to offer capacity of sufficient quality and quantity also for rail services that have unstable demand, are organised on relatively short notice, include more than a single train run, and may run repeatedly for a period of time that may not coincide with the duration of the working timetable period. ***This type of capacity offer could also be offered in a package of minimum pre-calculated unreserved train paths that can then be allocated at short notice.***

Amendment 14
Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12 a) *Different practises for timetable planning are used in Member*

States and these concepts should be taken into account in the strategic capacity planning. These practises require increased coordination between infrastructure managers across borders, in particular when the infrastructure manager pre-plan capacity by using integrated clock-face timetables.

Amendment 15
Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) A significant share of rail freight transport is long-distance and requires cross-border coordination of infrastructure managers. The policy goal of increasing rail traffic also relies on growing cross-border passenger services. To facilitate and promote an increasing cross-border traffic in the single European railway area, it is necessary to ensure greater consistency and harmonisation of the rules and procedures on the management of rail infrastructure capacity. Accordingly, the role of the European Network of Infrastructure Manager should be strengthened with a view to entrusting it with the development of guidelines for the harmonised implementation of this Regulation on procedures and methodologies for the management of rail infrastructure capacity and with the active coordination of cross-border capacity and traffic. In particular, the European Network of Infrastructure Managers should develop European frameworks for capacity management, for the coordination of cross-border traffic management, disruption management and crisis management, and for performance review.

Amendment

(14) A significant share of rail freight transport is long-distance and requires cross-border coordination of infrastructure managers. The policy goal of increasing rail traffic also relies on growing cross-border passenger services. To facilitate and promote an increasing cross-border traffic in the single European railway area, it is necessary to ensure greater consistency and harmonisation of the rules and procedures on the management of rail infrastructure capacity. Accordingly, the role of the European Network of Infrastructure Manager should be strengthened with a view to entrusting it with the development of guidelines for the harmonised implementation of this Regulation on procedures and methodologies for the management of rail infrastructure capacity and with the active coordination of cross-border capacity and traffic. In particular, the European Network of Infrastructure Managers should develop European frameworks for capacity management, for the coordination of cross-border traffic management, disruption management and crisis management, and for performance review. ***Railway undertakings, applicants and other operational stakeholders should also be consulted in the development of these European frameworks.***

Amendment 16
Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) The European frameworks developed by the European Network of Infrastructure Manager should provide guidelines that infrastructure manager should make the utmost efforts to follow, while retaining responsibility for their operational decisions. Infrastructure managers should ***motivate*** any deviation from the frameworks developed by European Network of Infrastructure Manager. This approach is considered to strike the balance between the needs of coordination and application of harmonised approaches in the single European railway area, and the need for adapting procedures and methodologies to the specific circumstances of given geographical areas. After five years of application of this Regulation, the Commission should assess whether the state of convergence of procedures and methodologies and the effectiveness of the coordination process between infrastructure managers, as well as the general progress towards the establishment of the single European railway area, warrant the introduction of secondary legislation to replace elements the European frameworks developed by the European Network of Infrastructure ***Manager***.

Amendment 17
Proposal for a regulation
Recital 15 a (new)

Text proposed by the Commission

Amendment

(15) The European frameworks developed by the European Network of Infrastructure Manager should provide guidelines that infrastructure manager should make the utmost efforts to follow, while retaining responsibility for their operational decisions. Infrastructure managers should ***justify*** any deviation from the frameworks developed by European Network of Infrastructure Manager, ***which should only be allowed in exceptional cases and be subject to approval by the national rail regulatory body***. This approach is considered to strike the balance between the needs of coordination and application of harmonised approaches in the single European railway area, and the need for adapting procedures and methodologies to the specific circumstances of given geographical areas. After five years of application of this Regulation, the Commission should assess whether the state of convergence of procedures and methodologies and the effectiveness of the coordination process between infrastructure managers, as well as the general progress towards the establishment of the single European railway area, warrant the introduction of secondary legislation to replace elements the European frameworks developed by the European Network of Infrastructure ***Managers***.

(15 a) To ensure a seamless European rail network and to enhance

cross-border and multi-network rail traffic for both freight and passenger transport, new tasks should be assigned to the ERA. ERA should cooperate closely with ENIM and the Network Coordinator in the delivery of its new tasks.

Amendment 18
Proposal for a regulation
Recital 15 b (new)

Text proposed by the Commission

Amendment

(15 b) ERA's resources are insufficient given the extent of the proposed increase in the Agency's tasks and the scale of the Union's ambitions within this Regulation. Thus, the amount of the financial resources dedicated to the performance of ERA tasks under this Regulation should be drawn from the unallocated margins under Multiannual Financial Framework (MFF) ceilings or mobilised through the non-thematic MFF special instruments. Since the Commission proposal for MFF revision did not reinforce ERA budget, the increase in appropriations for ERA cannot be offset by a compensatory reduction of programmed spending under CEF Transport or lead to a reduction of the funding for any other Union programmes.

Amendment 19
Proposal for a regulation
Recital 17

Text proposed by the Commission

Amendment

(17) The operation of railway infrastructure not only requires close cooperation between infrastructure managers, but also a strong interaction with railway undertakings and other stakeholders directly involved in rail and multimodal transport and logistic

(17) The operation of railway infrastructure not only requires close cooperation between infrastructure managers, but also a strong interaction with railway undertakings and other stakeholders directly involved in rail and multimodal transport and logistic

operations. Therefore, it is necessary to provide for structured coordination between infrastructure managers and other stakeholders.

operations. Therefore, it is necessary to provide for structured coordination between infrastructure managers and other stakeholders. ***To strengthen the role of Railway Undertakings and applicants, ERP is established as a consultative body to ENIM. Operators of service facilities and terminals, multimodal capacity stakeholder, such as sea and inland waterway ports and owners of other rail-related service facilities, might also be part of ERP. ENIM should consult ERP before preparing adoption of the European frameworks for Capacity Management, Traffic Management and Performance Management. Furthermore, ERP could provide ENIM with a closer view on market developments and it could also issue own initiative opinions on any proposals or decisions by ENIM and ERA.***

Amendment 20
Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) Reliability of rail services is one of the aspects most valued by railway customers. Reliability of schedules is also a critical aspect for the smooth functioning of the rail system, where there are strong interactions between services and network externalities. For that reason, deviations from the schedule should be kept to the minimum. Additionally, a system of adequate incentives should be introduced to promote the fulfilment of commitments by infrastructure managers, railway undertakings and other relevant stakeholders. Those incentives should be both of economic and non-economic nature.

Amendment

(18) Reliability of rail services is one of the aspects most valued by railway customers, ***and not least a critical requirement of the re-emerging night train market, where rail customers and applicants need to know well in advance how their services can run.*** Reliability of schedules is also a critical aspect for the smooth functioning of the rail system, where there are strong interactions between services and network externalities. For that reason, deviations from the schedule should be kept to the minimum. Additionally, a system of adequate incentives should be introduced to promote the fulfilment of commitments by infrastructure managers, railway undertakings, ***operators of service facilities*** and other relevant stakeholders. Those incentives should be both of economic and

Amendment 21
Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Continuous monitoring of the quality of rail infrastructure and transport services is a precondition for improving the performance of these services. ***It is*** therefore necessary to establish a transparent and objective system of indicators that provides feedback on aspects of performance that are relevant for the different operational stakeholders and for the end customers of rail transport services. The main function of that a system should focus on monitoring the fulfilment of commitments made by the operational stakeholders and progress in performance over time while taking into account different circumstances and characteristics within the rail sector. For the establishment of such a system and the analysis of its output, the Commission should be able to rely on independent experts in the form of a Performance Review Body. This body should be able to provide independent advice to the Commission in all areas that influence the performance of rail services and infrastructure management.

Amendment

(19) Continuous monitoring of the quality of rail infrastructure and transport services is a precondition for improving the performance of these services. Therefore, ***infrastructure managers should monitor and benchmark the performance of rail infrastructure services and rail transport services. Infrastructure managers, when setting out their own performance targets in the plan, should consult the national regulators, national ministries and the Commission in order to ensure that those targets are consistent with the Union performance targets. It is also*** necessary to establish a transparent and objective system of indicators that provides feedback on aspects of performance that are relevant for the different operational stakeholders and for the end customers of rail transport services. The main function of that a system should focus on monitoring the fulfilment of commitments made by the operational stakeholders and progress in performance over time while taking into account different circumstances and characteristics within the rail sector. For the establishment of such a system and the analysis of its output, the Commission ***and ERA*** should be able to rely on independent experts ***with a profound knowledge of the railway sector*** in the form of a Performance Review Body. This body should be able to provide independent ***expert*** advice to the Commission ***and ERA*** in all areas that influence the performance of rail services and infrastructure management.

Amendment 22
Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) To improve the performance of rail infrastructure services in the single European railway area, the infrastructure managers, in close cooperation with the Commission, the Performance Review Body and relevant stakeholders, should **set up and** implement a common framework for the review of performance. This framework should ensure that all EU infrastructure managers use common principles and methodologies for measuring performance through agreed indicators. The framework should allow for identifying performance deficiencies on the EU railway network. It should ensure that infrastructure managers set performance objectives in a way that takes into account the specificities of the network they manage, but at the same time ensures coherency in identifying the most relevant performance deficiencies. The framework should allow infrastructure managers to cooperate at EU level in identifying measures to address performance deficiencies and to keep track of their impact. Infrastructure managers, working together in the European Network for Infrastructure Managers and taking into account the opinion of the Performance Review Body and the Commission, should review this framework regularly to ensure that it is fit for purpose.

Amendment 23
Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) The rail regulatory bodies should cooperate at Union level to ensure coherent

Amendment

(20) To improve the performance of rail infrastructure services in the single European railway area, the infrastructure managers, in close cooperation with the Commission, **ERA**, the Performance Review Body and relevant stakeholders, should implement a common framework for the review of performance. This framework should ensure that all EU infrastructure managers use common principles and methodologies for measuring performance through agreed indicators. The framework should allow for identifying performance deficiencies on the EU railway network. It should ensure that infrastructure managers set performance objectives in a way that takes into account the specificities of the network they manage, but at the same time ensures coherency in identifying the most relevant performance deficiencies. The framework should allow infrastructure managers to cooperate at EU level, **including within ERA** in identifying measures to address performance deficiencies and to keep track of their impact. Infrastructure managers, working together **with ERA** in the European Network for Infrastructure Managers and taking into account the opinion of the Performance Review Body and the Commission, should review this framework regularly to ensure that it is fit for purpose.

Amendment

(22) The rail regulatory bodies should cooperate at Union level to ensure coherent

application of the regulatory framework and consistent treatment of applicants across the single European railway area. They should do so through the European Network of Rail Regulatory Bodies, with a view to develop common practices for making the decisions for which they are empowered under this Regulation. For that purpose, the ***European Network of Rail Regulatory Bodies*** should perform coordination tasks and adopt non-binding recommendations and opinions, which should not affect the competences of the rail regulatory bodies or those of the infrastructure managers.

application of the regulatory framework and consistent treatment of applicants across the single European railway area. They should do so through the European Network of Rail Regulatory Bodies (***ENRRB***), with a view to develop common practices for making the decisions for which they are empowered under this Regulation. For that purpose, ***ENRRB*** should perform coordination tasks and adopt non-binding recommendations and opinions, which should not affect the competences of the rail regulatory bodies or those of the infrastructure managers. ***ENRRB should verify the compatibility of the European frameworks, with the regulatory objectives of the Regulation. Regulatory supervision should be designed in such a way so as to prevent national decisions to undermine the harmonised procedures described in the European frameworks, unless otherwise provided for in this Regulation.***

Amendment 24
Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) Efficient management of rail capacity and traffic requires exchange of data and information between infrastructure managers, applicants and other operational stakeholders. This exchange can be considerably more effective and efficient with the support of interoperable digital tools and, where possible, automation. Specifications for interoperability should therefore be implemented as a matter of priority and further developed to keep up with technological developments and the new processes put forward in this Regulation.

Amendment

(23) Efficient management of rail capacity and traffic requires exchange of data and information between infrastructure managers, applicants and other operational stakeholders. This exchange can be considerably more effective and efficient with the support of interoperable digital tools and, where possible, automation. Specifications for interoperability should therefore be implemented as a matter of priority and further developed to keep up with technological developments and the new processes put forward in this Regulation. ***In order to ensure a swift development and implementation, the Commission should be empowered to adopt a delegated act for the implementation and governance of an integrated digital European rail traffic***

management. As ERA is the European system authority for telematics applications, it should be closely involved in the development and implementation of the digital tools referred to in Article 62 of this Regulation to ensure that they are compliant with the TSI for telematics applications as defined in Directive (EU) 2016/797 and in accordance with Article 23 of Regulation (EU) 2016/796.

Amendment 25
Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23 a) Workers are crucial for the efficient functioning of the railway sector. For services to become more efficient and in order to increase their quality, digitalisation is essential. The digitalisation and automatisisation of rail capacity and traffic management need to be accompanied by digital skill development for the sector's employees. Additional training and investment in the extension of digital competencies with respect to new digital requirements is to enable workers to adapt and positively contribute to the well-functioning of the sector through enhanced communication and capacity to deal with unexpected events.

Amendment 26
Proposal for a regulation
Recital 29

Text proposed by the Commission

Amendment

(29) The ex-post evaluation of Regulation (EU) No 913/2010²⁰ concluded that the Regulation's impact was too limited to contribute to a modal shift from road to rail. Moreover, the cooperation between Member States and infrastructure managers

(29) The ex-post evaluation of Regulation (EU) No 913/2010²⁰ concluded that the Regulation's impact was too limited to contribute to a modal shift from road to rail. Moreover, the cooperation between Member States and infrastructure managers

in the management of the rail infrastructure was still ineffective from a cross-border perspective. The evaluation has also shown that managing separately the capacity on the rail freight corridors and on the rest of the network is not efficient. A single regulatory framework should apply to the operation of rail network capacity, consolidating the related provisions in Directive 2012/34/EU and of Regulation (EU) No 913/2010. Therefore, Regulation (EU) No 913/2010 and the provisions in Directive 2012/34/EU on capacity allocation should be repealed and replaced by this Regulation.

²⁰ SWD(2021) 134 final of 2 June 2021

Amendment 27
Proposal for a regulation
Recital 29 a (new)

Text proposed by the Commission

Amendment 28
Proposal for a regulation
Recital 30

Text proposed by the Commission

(30) The preparation of the working timetable requires preparatory activities to be carried out in the years preceding the

in the management of the rail infrastructure was still ineffective from a cross-border perspective. The evaluation has also shown that managing separately the capacity on the rail freight corridors and on the rest of the network is not efficient. A single regulatory framework should apply to the operation of rail network capacity, consolidating the related provisions in Directive 2012/34/EU and of Regulation (EU) No 913/2010. Therefore, Regulation (EU) No 913/2010 and the provisions in Directive 2012/34/EU on capacity allocation should be repealed and replaced by this Regulation. ***Relevant Articles of Regulation 1315/2013 on Union Guidelines for the development of the trans-European transport network should be amended accordingly.***

²⁰ SWD(2021) 134 final of 2 June 2021

Amendment

(29a) Similarly, alignment should be ensured with the following implementing regulations, for the allocation rules in service facilities (implementing regulation 2017/2177) and for procedures and criteria concerning framework agreements (implementing regulation 2016/545).

Amendment

(30) The preparation of the working timetable requires preparatory activities to be carried out in the years preceding the

entry into force of the said working timetable. Therefore, the transition from the regulatory framework established by Directive 2013/34/EU and Regulation (EU) No 913/2010 to the one established by this Regulation implies that preparations for working timetables under the new framework should begin in parallel to the application of rules under the current framework. Accordingly, a dual regime must apply in a transition phase whereby necessary preparatory steps for a given timetable should comply with the legal framework applicable to that specific working timetable. Framework agreements concluded under the current framework should have the possibility to continue *applying for a transition period under the new regime.*

entry into force of the said working timetable. Therefore, the transition from the regulatory framework established by Directive 2012/34/EU and Regulation (EU) No 913/2010 to the one established by this Regulation implies that preparations for working timetables under the new framework should begin in parallel to the application of rules under the current framework. Accordingly, a dual regime must apply in a transition phase whereby necessary preparatory steps for a given timetable should comply with the legal framework applicable to that specific working timetable. Framework agreements concluded under the current framework should have the possibility to continue *until the end of their contract.*

Amendment 29
Proposal for a regulation
Recital 31

Text proposed by the Commission

(31) Under the new framework, the preparatory steps for a working timetable should begin with the publication of a capacity strategy five years before the entry into force of a given working timetable. In the interest of an early application of the new regulatory framework and taking into account the preparatory work already undertaken by the sector, the schedule of activities leading to the establishment of the first two working timetables could be shortened to 38 months by abbreviating the phase of the capacity strategy. Accordingly, the first working timetable falling under the new regulatory framework should be the working timetable starting on [9 December 2029]. All stakeholders should start the necessary preparations without delay with a view to comply with the new framework.

Amendment

(31) Under the new framework, the preparatory steps for a working timetable should begin with the publication of a capacity strategy five years before the entry into force of a given working timetable. In the interest of an early application of the new regulatory framework and taking into account the preparatory work already undertaken by the sector, the schedule of activities leading to the establishment of the first two working timetables could be shortened to 38 months by abbreviating the phase of the capacity strategy. Accordingly, the first working timetable falling under the new regulatory framework should be the working timetable starting on [9 December 2029]. All stakeholders should start the necessary preparations without delay with a view to comply with the new framework. *An earlier application date could be considered by Member States that are able to prove that they have carried out all the*

necessary steps before the adoption date of the Regulation.

Amendment 30
Proposal for a regulation
Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. This Regulation also lays down rules and procedures for the implementation of an integrated digital European rail traffic management system

Amendment 31
Proposal for a regulation
Article 1 – paragraph 2

Text proposed by the Commission

Amendment

2. This Regulation applies to the use of railway infrastructure for domestic and international rail services referred to in Article 1(2) of Directive 2012/34/EU, including service facilities as defined in Article 3(11) of that Directive.

2. This Regulation applies to ***the Union rail system defined in Article 2(1) of Directive (EU) 2016/797***, the use of railway infrastructure for domestic and international rail services referred to in Article 1(2) of Directive 2012/34/EU, including service facilities as defined in Article 3(11) of that Directive.

Amendment 32
Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. Chapters II to V of this Regulation shall not apply to rail infrastructure or railway services that are excluded from the application of Chapter IV of Directive 2012/34/EU in accordance with Article 2(3), (3a), (4), (8), (8a) and (10) of that Directive during the period of validity of the relevant exclusions.

3. Chapters II to V of this Regulation shall not apply to rail infrastructure or railway services that are excluded from the application of Chapter IV of Directive 2012/34/EU in accordance with Article 2(3), (3a), (4), (8), (8a), ***(9)*** and (10) of that Directive during the period of validity of the relevant exclusions.

Amendment 33
Proposal for a regulation
Article 2 – paragraph 3 – point a

Text proposed by the Commission

(a) make optimum effective use of the available infrastructure capacity as required in Article 26 of Directive 2012/34/EU;

Amendment

(a) make optimum effective use of the available infrastructure capacity as required in Article 26 of Directive 2012/34/EU ***with the aim of increasing the share of rail transport, both for passenger and freight services in accordance with Union's climate targets;***

Amendment 34
Proposal for a regulation
Article 2 – paragraph 3 – point d

Text proposed by the Commission

(d) enable seamless rail traffic across more than one network;

Amendment

(d) enable seamless ***and punctual*** rail traffic across more than one network ***and across borders by striving to eliminate bottlenecks and operational obstacles;***

Amendment 35
Proposal for a regulation
Article 2 – paragraph 3 – point f

Text proposed by the Commission

(f) review and improve the performance of rail infrastructure and transport services in close cooperation with rail sector operators;

Amendment

(f) review and improve the performance of rail infrastructure and transport services in close cooperation with rail sector operators, ***including service facilities that are directly involved in a railway service;***

Amendment 36
Proposal for a regulation
Article 2 – paragraph 3 – point g

Text proposed by the Commission

(g) contribute to the implementation and

Amendment

(g) contribute to the implementation and

development of the single European railway area.

development of the single European railway area, ***in particular through common European technical and operational rules and standards, technical equipment requirements and staff certification.***

Amendment 37

Proposal for a regulation

Article 4 – paragraph 2 – point 1

Text proposed by the Commission

(1) ‘force majeure’ means any unforeseeable ***or unusual*** event or situation beyond the control of the infrastructure manager ***or*** the railway undertaking, which cannot be ***avoided or*** overcome with reasonable foresight and diligence, be solved by measures which are from a technical, financial or economic point of view reasonably possible ***for them, which has*** actually happened and ***is*** objectively verifiable, and which makes it impossible for the infrastructure manager to fulfil, temporarily or permanently, its obligations in accordance with this Regulation or Directive 2012/34/EU or for the railway undertaking to meet its contractual obligations towards an infrastructure manager or managers;

Amendment

(1) ‘force majeure’ means any unforeseeable, ***unavoidable or exceptional*** event or situation beyond the control of the infrastructure manager, the railway undertaking ***or the applicant***, which cannot be overcome with reasonable foresight and diligence, ***cannot*** be solved by measures which are from a technical, financial or economic point of view reasonably possible ***including re-routing across borders; this event must have*** actually happened and ***needs to be*** objectively verifiable and which makes it impossible for the infrastructure manager to fulfil, temporarily or permanently, its obligations in accordance with this Regulation or Directive 2012/34/EU or for the railway undertaking to meet its contractual obligations towards an infrastructure manager or managers;

Amendment 38

Proposal for a regulation

Article 4 – paragraph 2 – point 2 a (new)

Text proposed by the Commission

Amendment

(2 a) ‘applicant’ means railway undertaking or an international grouping of railway undertakings or other persons or legal entities, such as competent authorities as defined in Article 2(b) of Regulation (EC) No 1370/2007 of the European Parliament and of the

Council^{1a} and shippers, freight forwarders and combined transport operators, with a public-service or commercial interest in procuring infrastructure capacity;

^{1a} *Regulation (ec) no 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315 3.12.2007, p. 1).*

Amendment 39
Proposal for a regulation
Article 4 – paragraph 2 – point 3

Text proposed by the Commission

(3) ‘operational stakeholder’ means an applicant, **railway undertaking**, infrastructure manager, **rail** service facility **operator**, provider of rail-related services and any other entity directly involved in operating a rail transport service;

Amendment

(3) ‘operational stakeholder’ means an applicant **association of applicants**, infrastructure manager, **operator of** service facility, provider of rail-related services and any other entity directly involved in operating a rail transport service;

Amendment 40
Proposal for a regulation
Article 4 – paragraph 2 – point 17 a (new)

Text proposed by the Commission

Amendment

(17 a) systematic train paths’ means train paths that are based on Articles 11 and 20 of this Regulation, pre-planned in a regular schedule for the period of a working time table,

Amendment 41
Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. Infrastructure managers shall strive

1. Infrastructure managers shall strive

to follow common principles and procedures for the management of rail infrastructure capacity. For this purpose, ENIM shall develop and adopt a ‘European framework for capacity management’ in accordance with the provisions of Chapter II by [12 months of the entry into force of this Regulation].

to follow common principles and procedures for the management of rail infrastructure capacity. For this purpose, ENIM shall develop *in consultation with ERP* and adopt a ‘European framework for capacity management’ in accordance with Chapter II by ...[12 months from the entry into force of this Regulation].

Amendment 42
Proposal for a regulation
Article 6 – paragraph 4

Text proposed by the Commission

4. Infrastructure managers shall take the utmost account of the European framework for capacity management when preparing the network statement referred to in Article 27 of Directive 2012/34/EU, in particular the contents specified in Annex IV of this Regulation. They shall *explain* in the network statement the reason for any deviation from the common principles and procedures established in the European framework for capacity management.

Amendment

4. Infrastructure managers shall take the utmost account of the European framework for capacity management when preparing the network statement referred to in Article 27 of Directive 2012/34/EU, in particular the contents specified in Annex IV of this Regulation. They shall *justify* in the network statement the reason for any deviation from the common principles and procedures established in the European framework for capacity management. *Deviations shall only be allowed in exceptional cases and they shall be subject to approval by the national rail regulatory body.*

Amendment 43
Proposal for a regulation
Article 6 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to set out the common principles and procedures for the management of rail infrastructure capacity and to amend paragraph 2 of this Article Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation].

Amendment 44
Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

1. Applicants shall make requests for infrastructure capacity. In order to use such infrastructure capacity, applicants shall appoint a railway undertaking to conclude an agreement with the infrastructure manager in accordance with Article 28 of Directive 2012/34/EU. This is without prejudice to the right of applicants to conclude framework agreements with infrastructure managers under Article 31 of this Regulation.

Amendment

1. Applicants shall make requests for infrastructure capacity. In order to use such infrastructure capacity, applicants, ***who are not a railway undertaking*** shall appoint a railway undertaking to conclude an agreement with the infrastructure manager in accordance with Article 28 of Directive 2012/34/EU. This is without prejudice to the right of applicants to conclude framework agreements with infrastructure managers under Article 31 of this Regulation.

Amendment 45
Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

2. The infrastructure manager ***may*** set requirements with regard to applicants to ensure that its legitimate expectations about future revenues and utilisation of the infrastructure are safeguarded. Such requirements shall be appropriate, transparent and non-discriminatory. They shall be specified in the network statement as referred to in point (1)(b) of Annex IV. They may only include the provision of a financial guarantee that shall not exceed an appropriate level which shall be proportional to the contemplated level of activity of the applicant, and assurance of the capability to prepare compliant bids for infrastructure capacity.

Amendment

2. The infrastructure manager ***shall*** set requirements with regard to applicants to ensure that its legitimate expectations about future revenues and utilisation of the infrastructure are safeguarded. Such requirements shall be appropriate, transparent and non-discriminatory. They shall be specified in the network statement as referred to in point (2)(c) of Annex IV. They may only include the provision of a financial guarantee that shall not exceed an appropriate level which shall be proportional to the contemplated level of activity of the applicant, and assurance of the capability to prepare compliant bids for infrastructure capacity.

Amendment 46
Proposal for a regulation
Article 7 – paragraph 3

Text proposed by the Commission

3. The Commission **may** adopt implementing acts **setting** out the details of the criteria to be followed for the application of paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Amendment

3. The Commission **shall, by [24 months from the entry into force of this Regulation],** adopt implementing acts to set out the details of the criteria to be followed for the application of paragraph 2 **and to amend paragraph 2.** Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Amendment 47

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Without prejudice to State aid rules, Member States **may**, where appropriate, grant the infrastructure manager compensation corresponding to losses of revenue related exclusively to the need to comply with the strategic guidance regarding the use of rail infrastructure capacity.

Amendment

Without prejudice to State aid rules, Member States **shall**, where appropriate, grant the infrastructure manager compensation corresponding to losses of revenue related exclusively to the need to comply with the strategic guidance regarding the use of rail infrastructure capacity.

Amendment 48

Proposal for a regulation

Article 8 – paragraph 4 – subparagraph 2 – introductory part

Text proposed by the Commission

Those procedures shall assess alternative options for the use of infrastructure capacity, based on the following socioeconomic and environmental criteria, subject to the availability of **data**:

Amendment

Those procedures shall assess alternative options for the use of infrastructure capacity, based on the following socioeconomic and environmental criteria, subject to the availability of **standardised data made available by the applicants shall make available to the infrastructure managers. The criteria shall include but shall not be limited to:**

Amendment 49
Proposal for a regulation
Article 8 – paragraph 4 – subparagraph 2 – point c

Text proposed by the Commission

(c) connectivity and accessibility for people and regions served by the rail transport services;

Amendment

(c) connectivity and accessibility, ***both as a network effect on the overall network and network segments***, for people and regions served by the rail transport services;

Amendment 50
Proposal for a regulation
Article 8 – paragraph 4 – subparagraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(e a) modal shift effects towards rail.

Amendment 51
Proposal for a regulation
Article 8 – paragraph 5 – introductory part

Text proposed by the Commission

5. ENIM shall prepare and adopt the procedures referred to in paragraph 4 and include them in the ***EU*** framework for capacity management referred to in Article 6. The procedures shall involve the following steps:

Amendment

5. ENIM shall, ***in consultation with ERP*** prepare and adopt the procedures referred to in paragraph 4 and include them in the ***European*** framework for capacity management referred to in Article 6. The procedures shall involve the following steps:

Amendment 52
Proposal for a regulation
Article 8 – paragraph 5 – point a

Text proposed by the Commission

(a) design alternative scenarios to partition the capacity available for different ***types*** of rail transport services, involving, where possible, the provision of alternative

Amendment

(a) design alternative scenarios to partition the capacity available for ***every*** different ***type*** of rail transport services ***that apply for the same capacity***, involving,

capacity on other routes or alternative timing with comparable characteristics;

where possible, the provision of alternative capacity on other routes or alternative timing with comparable characteristics ***both for domestic and cross-border services;***

Amendment 53

Proposal for a regulation

Article 8 – paragraph 5 – point a a (new)

Text proposed by the Commission

Amendment

(a a) design alternative scenarios to address capacity conflicts between two requests that both are not consistent with the strategic capacity planning;

Amendment 54

Proposal for a regulation

Article 8 – paragraph 6

Text proposed by the Commission

Amendment

6. ENIM shall develop the methodologies referred to in paragraph 5, point b. The parameters of those methodologies shall make it possible to take into account local or national circumstances based on accepted approaches and empirical evidence. ENIM shall include those methodologies in the European framework for capacity management referred to in Article 6.

6. ENIM shall, ***in consultation with ERP***, develop the methodologies referred to in paragraph 5, point (b), ***of this Article***. The parameters of those methodologies shall make it possible to take into account local or national circumstances based on accepted approaches and empirical evidence. ENIM shall include those methodologies in the European framework for capacity management referred to in Article 6.

Amendment 55

Proposal for a regulation

Article 8 – paragraph 7

Text proposed by the Commission

Amendment

7. Taking into account experiences with the preparation and implementation of the framework referred to in paragraph 6, the Commission ***may*** adopt ***implementing*** acts setting out the specific procedures, criteria

7. Taking into account experiences with the preparation and implementation of the framework referred to in paragraph 6, the Commission ***shall be empowered to*** adopt, ***delegated*** acts ***in accordance with Article***

and methodologies to be applied for the management of scarce capacity. Those **implementing** acts shall be adopted in accordance with **the examination procedure** referred to in **Article 72(3)**.

71 to set out the specific procedures, **standardised data reflecting different market segments for the** criteria and **standardised** methodologies to be applied for the management of scarce capacity **and to amend paragraph 6 of this Article**. Those **delegated** acts shall be adopted **by ... [24 months from the entry into force of this Regulation]**. **They shall be included in the European framework for capacity management.**

Amendment 56
Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Infrastructure managers shall provide interested parties, in particular applicants, potential applicants and regulatory bodies, with accurate and up-to-date information on the availability of infrastructure capacity throughout the entire capacity management process, including in the strategic planning phase referred to in section 2, during the scheduling and allocation processes set out in section 3 and whenever there are changes to allocated capacity as referred to in section 4.

Amendment

Infrastructure managers shall provide interested parties, in particular applicants, potential applicants and regulatory bodies, with accurate and up-to-date information on the availability of infrastructure capacity throughout the entire capacity management process, including in the strategic planning phase referred to in section 2, during the scheduling and allocation processes set out in section 3 and whenever there are changes to allocated capacity as referred to in section 4, **depending on the availability of the published capacity strategy, capacity model and capacity supply plan.**

Amendment 57
Proposal for a regulation
Article 9 – paragraph 3

Text proposed by the Commission

3. At the request of applicants, infrastructure managers shall provide the information referred to in paragraph 1 on the basis of concrete specifications of commercial and operational needs ('feasibility assessments'). For cross-border services, infrastructure managers

Amendment

3. At the request of applicants, infrastructure managers shall provide the information referred to in paragraph 1 **of this Article** on the basis of concrete specifications of commercial and operational needs ('feasibility assessments'). For cross-border services,

shall receive and answer to such requests in a single place and single operation or via a single interface.

infrastructure managers shall receive and answer to such requests in a single place and single operation or via a single interface *established in accordance with Article 27 (4)*.

Amendment 58
Proposal for a regulation
Article 10 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Articles 7, 7c and 7e of Directive 2012/34/EU, infrastructure managers shall plan infrastructure work in accordance with the business plan and with the investment and financial programmes referred to in Article 8(3) of Directive 2012/34/EU. Where amendments to those programmes after the adoption of the business plan affect or are likely to affect the planning of infrastructure works, the infrastructure manager shall provide an overview of such amendments and their likely impact in the network statement.

Amendment

1. Without prejudice to Articles 7, 7c and 7e of Directive 2012/34/EU, infrastructure managers shall plan infrastructure work in accordance with the business plan and with the investment and financial programmes referred to in Article 8(3) of Directive 2012/34/EU. Where amendments to those programmes after the adoption of the business plan affect or are likely to affect the planning of infrastructure works, the infrastructure manager shall provide an overview of such amendments and their likely impact in the network statement. ***The Member State shall provide the infrastructure manager with stable and timely multiannual funding for the maintenance, renewal and new construction of rail infrastructure for a rolling period of at least five years via the multiannual performance agreement in order to support infrastructure managers to prevent the degrading of rail infrastructure and to minimise the impact on possible capacity restrictions. The annual budget available to infrastructure managers shall be made transparent to the infrastructure manager and be reliably allocated.***

Amendment 59
Proposal for a regulation
Article 10 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The funding provided by the Member State to the infrastructure manager shall aim at establishing such balance. The information needed for the infrastructure manager to comply with this provision shall be provided by applicants in a timely manner.

Amendment 60

Proposal for a regulation

Article 10 – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

The funding provided by the Member State to the infrastructure manager shall aim at establishing such balance. The information needed for the infrastructure manager to comply with this provision shall be provided by applicants in a timely manner

Amendment 61

Proposal for a regulation

Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. The infrastructure managers shall consult applicants on the infrastructure works in the context of the coordination mechanisms referred to in Article 7e of Directive **2012/34/EC** and, as regards cross-border rail services, in accordance with Article 54 of this Regulation.

3. The infrastructure managers shall consult applicants on the infrastructure works in the context of the coordination mechanisms referred to in Article 7e of Directive **2012/34/EU** and, as regards cross-border rail services, in accordance with Article 54 of this Regulation.

Amendment 62

Proposal for a regulation

Article 10 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Coordination shall address in particular the optimisation of the schedule of infrastructure works and the provision of alternative capacity on the line affected and on alternative routes, taking into account the operational and commercial needs of applicants.

Amendment

Coordination shall address in particular the optimisation of the schedule of infrastructure works and the provision of alternative capacity on the line affected and on alternative routes, taking into account the operational, ***infrastructure*** and commercial needs of ***various*** applicants.

Amendment 63

Proposal for a regulation

Article 10 – paragraph 5 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The rail freight governance shall submit a recommendation on the coordination of works to its respective infrastructure managers three months prior to the period as defined in paragraph 4.

Amendment 64

Proposal for a regulation

Article 11 – paragraph 2 – subparagraph 2

Text proposed by the Commission

The contents of and the schedule for preparing those deliverables are set out in sections 1 and 2 of Annex I.

Amendment

The contents of and the schedule for preparing those deliverables are set out in sections 1 and 2 of Annex I. ***All content shall be made available by the infrastructure manager in the official language of the Member State and in English.***

Amendment 65

Proposal for a regulation

Article 11 – paragraph 2 – subparagraph 4

Text proposed by the Commission

The Commission shall be empowered to

Amendment

The Commission shall be empowered to

adopt delegated acts in accordance with Article 71 to amend sections 1 and 2 of Annex I, to ensure an efficient strategic planning process and reflect the operational concerns of infrastructure managers and applicants, taking into account the experience of ENIM, infrastructure managers, applicants and other operational stakeholders, regulatory bodies and the **ENRB** in implementing this section.

adopt delegated acts in accordance with Article 71 to amend sections 1 and 2 of Annex I, to ensure an efficient strategic planning process and reflect the operational concerns of infrastructure managers and applicants, taking into account **a recommendation from ERA and** the experience of ENIM, infrastructure managers, applicants and other operational stakeholders, regulatory bodies and the **ENRRB** in implementing this section.

Amendment 66

Proposal for a regulation

Article 11 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

Subject to the principle of management independence laid down in Article 4 of Directive 2012/34/EU, Member States may provide the infrastructure manager with strategic guidance based on the indicative rail infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. That guidance may cover/contain in particular:

Amendment

Subject to the principle of management independence laid down in Article 4 of Directive 2012/34/EU, Member States may provide the infrastructure manager with strategic guidance based on the indicative rail infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. **The guidance shall be provided by Member States in a timely manner to allow infrastructure managers and operational stakeholders to follow the deadlines set out in Annex I of this Regulation.** That guidance may cover/contain in particular:

Amendment 67

Proposal for a regulation

Article 11 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

(b) an outlook on the development of rail infrastructure, taking into account relevant plans and strategies at national or regional level and the work plans of the European Transport Corridors referred to in Article 53 of the [new TEN-T Regulation];

Amendment

(b) an outlook on the development of rail infrastructure, taking into account relevant **plans, including long-term strategic infrastructure** plans and strategies at national or regional level and the work plans of the European Transport Corridors referred to in Article 54 of **Regulation (EU) 2024/... of the European Parliament**

and of the Council^{1a} [new TEN-T Regulation];

^{1a} *Regulation (EU) 2024/... of the European Parliament and of the Council of ...on Union guidelines for the development of the trans-European transport network, amending Regulations (EU) 2021/1153 and (EU) No 913/2010 and repealing Regulation (EU) No 1315/2013 (OJ...).*

Amendment 68
Proposal for a regulation
Article 11 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States shall coordinate *to* ensure consistency between the respective strategic guidance they provide in accordance with this paragraph with a view to supporting the development of international passenger and freight rail services.

Amendment

Member States shall coordinate *the timely provision of guidance to and* ensure consistency between the respective strategic guidance they provide in accordance with this paragraph with a view to supporting the development of international passenger and freight rail services. *With a view to Article 8 of Directive 2012/34/EU, Member States shall ensure advance allocation of financial resources for the infrastructure managers for regular maintenance of infrastructure and financial resources for infrastructure development described in the capacity strategy as referred in Article 16 of this Regulation. The Member States shall coordinate their long-term strategic infrastructure and timetable plans, their infrastructure development based on these plans and coordinate the timelines of their implementation.*

Amendment 69
Proposal for a regulation
Article 11 – paragraph 4 a (new)

4 a. Taking into account experiences with the preparation and implementation of the strategic guidance referred to in paragraph 3, the Commission may adopt delegated acts in accordance with Article 71 to set out the specific legal status, template, procedures, criteria and methodologies to be applied for adopting national strategic guidance to ensure consistency between those strategic guidances issued by Member State, which are necessary to support the development of international rail freight and passenger services.

Amendment 70

Proposal for a regulation

Article 12 – paragraph 2 – subparagraph 2

If necessary, in the light of experience gained in the implementation of this Regulation, ENIM may define a more detailed list which further differentiates between types of rail transport services. With a view to supporting the cross-border consistency of the strategic planning process, a harmonised list shall be included in the European framework for capacity management referred to in Article 6.

If necessary, in the light of experience gained in the implementation of this Regulation, ENIM **in cooperation with ERP** may define a more detailed list which further differentiates between types of rail transport services. With a view to supporting the cross-border consistency of the strategic planning process, a harmonised list shall be included in the European framework for capacity management referred to in Article 6.

Amendment 71

Proposal for a regulation

Article 12 – paragraph 4 – point c

(c) the input from the consultation of current and potential applicants in accordance with Article 13;

(c) **the capacity needs announced by operational stakeholders and** the input from the consultation of current and potential applicants in accordance with

Amendment 72
Proposal for a regulation
Article 12 – paragraph 4 – point f a (new)

Text proposed by the Commission

Amendment

(f a) as far as possible, the socio-economic and environmental impact of the use of infrastructure capacity.

Amendment 73
Proposal for a regulation
Article 12 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Amendment

Strategic capacity planning shall cover the *lines part of the TEN-T core and extended core network referred to in Article 6 of and Annex I to [new TEN-T Regulation]. Infrastructure managers may include other lines and nodes of the network they manage.*

Strategic capacity planning shall cover the *Single European Railway Area.*

Amendment 74
Proposal for a regulation
Article 12 – paragraph 8 – point b

Text proposed by the Commission

Amendment

(b) changes in market demand for infrastructure capacity;

(b) changes in market demand for infrastructure capacity *taking into account needs announced by applicants for new or modified services;*

Amendment 75
Proposal for a regulation
Article 12 – paragraph 9

Text proposed by the Commission

Amendment

9. ENIM shall develop guidelines

9. *By... [12 months from the entry into*

setting out common principles, procedures and methodologies for strategic capacity planning. It shall include those guidelines in the European framework for capacity management referred to in Article 6 of this Regulation. Those guidelines should contain at least the elements listed in Annex III to this Regulation. The infrastructure managers shall take the utmost account of those guidelines in the network statement referred to in Article 27 of Directive 2012/34/EU. They shall explain in the network statement the reason for any deviation from the common principles, procedures and methodologies established in the guidelines.

force of this Regulation], ENIM shall develop guidelines setting out common principles, procedures and methodologies for strategic capacity planning. It shall include those guidelines in the European framework for capacity management referred to in Article 6 of this Regulation. Those guidelines should contain at least the elements listed in Annex III to this Regulation. The infrastructure managers shall take the utmost account of those guidelines in the network statement referred to in Article 27 of Directive 2012/34/EU. They shall explain in the network statement the reason for any deviation from the common principles, procedures and methodologies established in the guidelines.

Amendment 76
Proposal for a regulation
Article 12 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9 a. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to set out common principles, procedures and methodologies for strategic capacity planning and to amend paragraph 9 of this Article. Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation]. They shall be included in the European framework for capacity management.

Amendment 77
Proposal for a regulation
Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Infrastructure managers shall consult all operational stakeholders operating multi-network rail services on strategic capacity planning in accordance with

2. Infrastructure managers shall consult all operational stakeholders operating multi-network rail services on strategic capacity planning **throughout the strategic**

Articles 53 and 54.

capacity management phase, and at least in accordance with the milestones set out in Annex I in accordance with Articles 53 and 54.

Amendment 78
Proposal for a regulation
Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Infrastructure managers shall give applicants the possibility to announce their capacity needs in a structured format throughout the capacity management process, for which ENIM shall specify appropriate timelines. Infrastructure managers shall make the utmost effort to integrate the needs announced by applicants in the strategic capacity planning documents referred to in Article 11(2). If alternatives are not available for all announced capacity needs, infrastructure managers shall make the utmost efforts to resolve the potential conflicts by means of the consensual conflict resolution mechanism referred to in Article 36.

Amendment 79
Proposal for a regulation
Article 13 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2 b. The regulatory body shall monitor the activities of the infrastructure manager in strategic capacity planning in accordance with Article 63.

Amendment 80
Proposal for a regulation
Article 14 – paragraph 1 – subparagraph 2 – point d

Text proposed by the Commission

(d) the involvement of all operational stakeholders, regulatory bodies and the European Network of Rail Regulatory Bodies ('the ENRRB'), the European Coordinators and, where necessary, Member State authorities and other stakeholders.

Amendment

(d) the involvement of all operational stakeholders **and ERP**, regulatory bodies and the European Network of Rail Regulatory Bodies ('the ENRRB'), the European Coordinators and, where necessary, Member State authorities and other stakeholders.

Amendment 81

Proposal for a regulation

Article 14 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. The rail freight governance shall submit a recommendation on coordinated capacity strategy to the respective infrastructure managers three months prior to the period as defined in Article 10(4).

Amendment 82

Proposal for a regulation

Article 15 – paragraph 1

Text proposed by the Commission

1. Infrastructure managers and ENIM shall regularly monitor and analyse transport markets in order to inform their overall business strategy, capacity and contingency management and investment decisions. Infrastructure managers shall communicate the results of this analysis to other stakeholders for similar purposes, including the European Coordinators.

Amendment

1. Infrastructure managers and ENIM, **in consultation with ENRRB and ERP**, shall regularly monitor and analyse transport markets **and relevant multimodal aspects for rail** in order to inform their overall business strategy, capacity and contingency management and investment decisions. Infrastructure managers shall communicate the results of this analysis to other stakeholders for similar purposes, including the European Coordinators.

Amendment 83
Proposal for a regulation
Article 15 – paragraph 3 – point c a (new)

Text proposed by the Commission

Amendment

(c a) if possible, the impact of projected climate change effects both on infrastructure and services provided.

Amendment 84
Proposal for a regulation
Article 15 – paragraph 4

Text proposed by the Commission

Amendment

4. ENIM shall consult applicants, customers of rail transport services and their associations, national and EU public authorities on the terms of reference for the study, in particular as regards the purpose of the study and the process for stakeholder involvement.

4. ENIM shall consult applicants, **ERP**, customers of rail transport services and their associations, national and EU public authorities on the terms of reference for the study, in particular as regards the purpose of the study and the process for stakeholder involvement.

Amendment 85
Proposal for a regulation
Article 15 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. All data for the study and the study itself shall be published and freely accessible. The data shall be machine readable.

Amendment 86
Proposal for a regulation
Article 16 – paragraph 4

Text proposed by the Commission

Amendment

4. The infrastructure manager shall prepare, publish and **regularly** update the capacity strategy in accordance with the

4. The infrastructure manager shall prepare, publish and, **when necessary**, update the capacity strategy in accordance

schedule and the contents set out in section 2 of Annex I.

with the schedule and the contents set out in section 2 of Annex I.

Amendment 87
Proposal for a regulation
Article 16 – paragraph 5

Text proposed by the Commission

5. Infrastructure managers shall consult applicants on the capacity strategy in accordance with Article 13 and coordinate capacities strategies with other infrastructure managers in accordance with Article 14.

Amendment

5. Infrastructure managers shall consult applicants ***and impacted service facilities*** on the capacity strategy in accordance with Article 13 and coordinate capacities strategies with other ***concerned*** infrastructure managers in accordance with Article 14.

Amendment 88
Proposal for a regulation
Article 16 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The infrastructure manager shall submit the capacity strategy to the regulatory body. Within three months after publication, the regulatory body shall, after analysis, have the power to require the infrastructure manager to amend it.

Amendment 89
Proposal for a regulation
Article 17 – paragraph 2

Text proposed by the Commission

Amendment

2. The capacity model shall at least provide information about the total volume of capacity available by network section, the shares of capacity reserved for different segments of rail transport services and for capacity restrictions resulting from infrastructure works. Infrastructure managers shall prepare and publish the capacity model for each working timetable

2. The capacity model shall at least provide information about the total volume of capacity available by network section, the shares of capacity reserved for different segments of rail transport services and for capacity restrictions resulting from infrastructure works. ***It shall also contain information on the capacity of the respective service facilities referred to in***

period and **regularly** update the capacity model in accordance with the contents and schedule set out in sections 1 and 2 of Annex I.

Article 29 (1). Infrastructure managers shall prepare and publish the capacity model for each working timetable period and update the capacity model **when needed** in accordance with the contents and schedule set out in sections 1 and 2 of Annex I.

Amendment 90
Proposal for a regulation
Article 17 – paragraph 3

Text proposed by the Commission

3. Infrastructure managers shall document and, where relevant, justify any divergence between the capacity model and the capacity strategy concerning the same working timetable period. **Where needed, the capacity strategy shall be revised in the light of developments since the adoption or the latest update of the capacity strategy.**

Amendment

3. Infrastructure managers shall document and, where relevant, justify any divergence between the capacity model and the capacity strategy concerning the same working timetable period. The capacity strategy **does not have to be updated in case the capacity model was already published for the same timetable period.**

Amendment 91
Proposal for a regulation
Article 17 – paragraph 4

Text proposed by the Commission

4. Infrastructure managers shall consult applicants on the capacity model in accordance with Article 13 and coordinate capacities strategies with other infrastructure managers in accordance with Article 14.

Amendment

4. Infrastructure managers shall consult applicants **and the regulatory body** on the capacity model in accordance with Article 13 and coordinate capacities strategies with other infrastructure managers **concerned** in accordance with Article 14.

Amendment 92
Proposal for a regulation
Article 17 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The infrastructure manager shall submit the capacity model to the regulatory body for scrutiny two months

before the publication. The regulatory body may take a decision no later than one month before publication, requiring the infrastructure manager to amend the capacity model before publication. With a view to ensure the cross-border consistency of capacity models, the decision of the regulatory body shall take into account, where relevant, any opinion or recommendation by ENIM, ERA or by other regulatory bodies.

Amendment 93

Proposal for a regulation

Article 18 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) infrastructure capacity available for allocation to applicants;

Amendment

(a) infrastructure capacity available for allocation to applicants *in the working timetable and safeguarded for later requests according to Article 33, including service facilities*; ;

Amendment 94

Proposal for a regulation

Article 18 – paragraph 4

Text proposed by the Commission

4. In the capacity supply plan, infrastructure managers may indicate infrastructure capacity as pre-planned. Pre-planned capacity means capacity for which the infrastructure manager defines characteristics and volumes of the capacity available for requests by applicants, sets out rules for the allocation of such capacity and defines the process through which such capacity can be requested, in accordance with Article 20. The specified characteristics, rules and allocation processes shall be taken into account when allocating pre-planned capacity.

Amendment

4. In the capacity supply plan, infrastructure managers may indicate infrastructure capacity *and capacity in service facilities as referred to in article 29 (1)* as pre-planned. Pre-planned capacity means capacity for which the infrastructure manager defines characteristics and volumes of the capacity available for requests by applicants, sets out rules for the allocation of such capacity and defines the process through which such capacity can be requested, in accordance with Article 20. The specified characteristics, rules and allocation processes shall be taken into account when allocating pre-planned capacity.

Amendment 95
Proposal for a regulation
Article 18 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Infrastructure managers shall include in the capacity supply plan all elements listed in paragraph 6 ***for all lines and nodes included in the TEN-T core and extended core network as defined in [new TEN-T Regulation].***

Amendment

Infrastructure managers shall include in the capacity supply plan all elements listed in paragraph 6 ***and ensure coherence with the capacity strategy.***

Amendment 96
Proposal for a regulation
Article 18 – paragraph 9

Text proposed by the Commission

9. The regulatory body shall analyse ***the capacity supply*** plan and may take a decision requiring the infrastructure manager to amend the capacity supply plan. ***The decision of the regulatory body shall take into account any opinion of or recommendation by ENIM, where such has been provided.***

Amendment

9. ***The infrastructure manager shall submit the draft capacity supply plan to the regulatory body for scrutiny two months before the publication.*** The regulatory body shall analyse ***this*** plan and may take a decision ***no later than one month before publication,*** requiring the infrastructure manager to amend the capacity supply plan.

Amendment 97
Proposal for a regulation
Article 18 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9 a. With a view to ensuring the cross-border consistency of capacity supply plans, the decision of the regulatory body shall take into account, where relevant, any opinion or recommendation by ENRRB, ERA or by other regulatory bodies.

Amendment 98
Proposal for a regulation
Article 18 – paragraph 10 – introductory part

Text proposed by the Commission

10. ENIM shall adopt guidelines and include them in the European framework for capacity management referred to in Article 6, setting out the following:

Amendment

10. ***By ... [12 months from the entry into force of this Regulation], and in consultation with ERP,*** ENIM shall adopt guidelines and include them in the European framework for capacity management referred to in Article 6, setting out the following:

Amendment 99
Proposal for a regulation
Article 18 – paragraph 10 a (new)

Text proposed by the Commission

Amendment

10 a. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to set out common principles, procedures and methodologies for the guidelines referred to in paragraph 10 of this Article and to amend paragraph 10 of this Article. Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation]. They shall be included in the European framework for capacity management.

Amendment 100
Proposal for a regulation
Article 19 – paragraph 2 – point a

Text proposed by the Commission

(a) the designation of alternative routes allowing to re-route traffic in the event of non-availability of ***the lines included in the core and extended core TEN-T network as set out in Article 6 of and Annex I to [new TEN-T Regulation];***

Amendment

(a) the designation of alternative routes allowing to re-route traffic in the event of non-availability of ***a line;***

Amendment 101
Proposal for a regulation
Article 19 – paragraph 5

Text proposed by the Commission

5. The Commission shall adopt **implementing acts** setting out the details of the procedure and criteria to be followed for the application of paragraph 2, in particular for situations which have a potential impact on cross-border traffic. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).**

Amendment

5. The Commission shall **be empowered to adopt delegated acts in accordance with Article 71 to set** out the details of the procedure and criteria to be followed for the application of paragraph 2 **of this Article**, in particular for situations which have a potential impact on cross-border traffic. **These delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation],**

Amendment 102
Proposal for a regulation
Article 20 – paragraph 2

Text proposed by the Commission

2. Capacity planning objects shall define the characteristics and properties of different types of pre-planned capacity, including capacity available for requests by applicants, capacity reserved for infrastructure works and capacity already allocated. Those characteristics and properties shall include all aspects relevant for specific types of pre-planned capacity, such as route, timing, guaranteed or required minimum speed, the technical compatibility between rolling stock with infrastructure, parameters and number of **slots** included.

Amendment

2. Capacity planning objects shall define the characteristics and properties of different types of pre-planned capacity, including capacity available for requests by applicants, capacity reserved for infrastructure works and capacity already allocated. Those characteristics and properties shall include all aspects relevant for specific types of pre-planned capacity, such as route, timing, guaranteed or required minimum speed, the technical compatibility between rolling stock with infrastructure, parameters and number of **train runs** included.

Amendment 103
Proposal for a regulation
Article 20 – paragraph 3

Text proposed by the Commission

3. ENIM shall develop a common framework for the criteria and procedures

Amendment

3. **By .. [12 months from the entry into force of this Regulation] and in**

referred to in paragraph 1 and include it in the European framework for capacity management referred to in Article 6. That common framework shall balance the benefits of reserving capacity for specific types of rail services or allocation processes with the need to ensuring flexibility to accommodate market needs in capacity allocation. For that purpose, the common framework shall provide for the possibility of taking into account requests for capacity rights not consistent with pre-planned capacity in the context of the consensual conflict resolution mechanism referred to in Article 36.

consultation with ERP, ENIM shall develop a common framework for the criteria and procedures referred to in paragraph 1 **of this Article** and include it in the European framework for capacity management referred to in Article 6. That common framework shall balance the benefits of reserving capacity for specific types of rail services or allocation processes with the need to ensuring flexibility to accommodate market needs in capacity allocation. For that purpose, the common framework shall provide for the possibility of taking into account requests for capacity rights not consistent with pre-planned capacity in the context of the consensual conflict resolution mechanism referred to in Article 36.

Amendment 104
Proposal for a regulation
Article 20 – paragraph 4

Text proposed by the Commission

4. ENIM shall develop and adopt formal specifications for capacity planning objects in human-readable and in machine-readable format. ENIM shall include these specifications in the European framework for capacity management referred to in Article 6. Based on its experience in applying this Article, ENIM shall provide information to the Commission on possible amendments to the technical specifications on interoperability as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, in accordance with Article 62(3) of this Regulation.

Amendment

4. ENIM shall develop and adopt formal specifications for capacity planning objects in human-readable and in machine-readable format. ENIM shall include these specifications in the European framework for capacity management referred to in Article 6 **of this Regulation**. Based on its experience in applying this Article, ENIM, **following consultation with ERP** shall provide information to the Commission on possible amendments to the technical specifications on interoperability as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, in accordance with Article 62(3) of this Regulation.

Amendment 105
Proposal for a regulation
Article 20 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The Commission shall be empowered to, adopt delegated acts in accordance with Article 71 to set out the details of the procedure and criteria to be followed for the application of paragraph 1 of this Article, in particular for situations which have a potential impact on cross-border traffic, and to amend paragraph 1 of this Article. Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation].

Amendment 106
Proposal for a regulation
Article 21 – paragraph 3

Text proposed by the Commission

Amendment

3. Conflicting individual capacity requests submitted for allocation during the working timetable shall not be a ground for declaring an element of infrastructure to be highly utilised or congested unless the conditions set in paragraph 1 are met.

3. Conflicting individual capacity requests submitted for allocation during the working timetable **period** shall not be a ground for declaring an element of infrastructure to be highly utilised or congested unless the conditions set in paragraph 1 are met.

Amendment 107
Proposal for a regulation
Article 21 – paragraph 8

Text proposed by the Commission

Amendment

8. The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement and shall respect any measures and criteria adopted in accordance with paragraph 7.

8. The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement and shall respect any measures and criteria adopted in accordance with paragraph **6**.

Amendment 108
Proposal for a regulation
Article 21 – paragraph 9

Text proposed by the Commission

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to amend Annex II, to ensure an efficient management of capacity on highly utilised and congested infrastructure and reflect the operational concerns of infrastructure managers and applicants, taking into account the experience of ENIM, infrastructure managers, applicants and other operational stakeholders, regulatory bodies and the **ENRB** in implementing this Article.

Amendment

9. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to amend Annex II, to ensure an efficient management of capacity on highly utilised and congested infrastructure and reflect the operational concerns of infrastructure managers and applicants, taking into account the experience of ENIM, infrastructure managers, applicants and other operational stakeholders, regulatory bodies and the **ENRRB** in implementing this Article.

Amendment 109
Proposal for a regulation
Article 22 – paragraph 1 – subparagraph 3

Text proposed by the Commission

The capacity analysis shall also include a first indicative set of possible measures to be taken in the short, medium and long term to ease the congestion and increase the availability of capacity.

Amendment

The capacity analysis shall also include a first indicative set of possible measures to be taken in the short, medium and long term to ease the congestion and increase the availability of capacity. ***The capacity analysis shall differentiate between measures for highly utilised infrastructure and for congested infrastructure.***

Amendment 110
Proposal for a regulation
Article 22 – paragraph 2

Text proposed by the Commission

2. The capacity analysis shall consider the characteristics of infrastructure in terms of capacity, capabilities and interoperability, operating procedures, the nature of the different services operating

Amendment

2. The capacity analysis shall consider the characteristics of infrastructure in terms of capacity, capabilities and interoperability, operating procedures, the nature of the different services operating

and the effect of all those factors on infrastructure capacity. Measures to be considered shall include in particular rerouting services, retiming services, speed alterations, harmonisation of operating procedures and infrastructure improvements.

and the effect of all those factors on infrastructure capacity. Measures to be considered shall include in particular rerouting services, ***including via different networks if applicable***, retiming services, speed alterations, harmonisation of operating procedures and infrastructure improvements.

Amendment 111

Proposal for a regulation

Article 22 – paragraph 4 – subparagraph 1

Text proposed by the Commission

Infrastructure managers shall take into account the results of any capacity analysis carried out pursuant to this Article in strategic capacity planning, in particular in the capacity strategy, in the capacity model and in the capacity supply plan.

Amendment

Infrastructure managers shall take into account the results of any capacity analysis carried out, ***including in other networks concerned***, pursuant to this Article in strategic capacity planning, in particular in the capacity strategy, in the capacity model and in the capacity supply plan.

Amendment 112

Proposal for a regulation

Article 23 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Within six months of the completion of a capacity analysis in accordance with Article 22, the infrastructure manager shall establish a capacity-enhancement plan.

Amendment

For infrastructure declared to be congested in accordance with Article 21 and within six months of the completion of a capacity analysis in accordance with Article 22, the infrastructure manager shall establish a capacity-enhancement plan.

Amendment 113

Proposal for a regulation

Article 23 – paragraph 1 – subparagraph 2 – point d

Text proposed by the Commission

(d) the options and costs for capacity enhancement, including likely changes to access charges.

Amendment

(d) the options and costs for capacity enhancement, including ***measures described in Article 22 (2) and*** likely

changes to access charges.

Amendment 114

Proposal for a regulation

Article 23 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

On the basis of a capacity analysis, the Member State shall construct or upgrade the infrastructure needed.

Amendment 115

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

When partitioning infrastructure capacity pursuant to paragraph 1, the infrastructure manager shall act in accordance with Article 8.

When partitioning infrastructure capacity ***declared to be congested*** pursuant to paragraph 1, the infrastructure manager shall act in accordance with Article 8.

Amendment 116

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

By ... [24 months from the entry into force of this Regulation], where partitioning infrastructure capacity was declared to be highly utilised pursuant to paragraph 1 of this Article, the infrastructure manager shall act in accordance with Article 8.

Amendment 117

Proposal for a regulation

Article 25 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

The infrastructure manager shall take into account the need for capacity for multi-

The infrastructure manager shall take into account the need for capacity for multi-

network rail services.

network rail services, *especially international rail freight services*.

Amendment 118

Proposal for a regulation

Article 27 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Applicants shall ***have the right to*** request multi-network capacity rights, and ***to*** receive answers to such requests, in a single place and in a single operation. Infrastructure managers shall cooperate in the allocation of capacity for multi-network rail services, including in particular international rail freight services and international rail passenger services.

Amendment

Applicants shall request multi-network capacity rights, and ***shall*** receive answers to such requests, in a single place and in a single operation ***as provided for in paragraph 4 of this Article***. Infrastructure managers shall cooperate in the allocation of capacity for multi-network rail services, including in particular international rail freight services and international rail passenger services.

Amendment 119

Proposal for a regulation

Article 27 – paragraph 3

Text proposed by the Commission

3. Infrastructure managers shall respect the commercial confidentiality of information provided to them.

Amendment

3. Infrastructure managers shall respect the commercial confidentiality of information provided to them, ***especially in the case of vertically integrated railway companies. Information such as the specific line subject to the request, their number, or their frequency shall be considered as confidential.***

Amendment 120

Proposal for a regulation

Article 27 – paragraph 4 – subparagraph 2

Text proposed by the Commission

For multi-network capacity rights, ENIM shall establish a single interface or a common system in accordance with Article 62, ***in order*** to manage capacity allocation

Amendment

For multi-network capacity rights, ENIM shall, ***upon approval of compliance with TSIs by ERA and by ... [12 months from the date of entry into force of this Regulation]***, establish ***a one-stop-shop in a***

in a single place and operation.

single interface or a common system *developed* in accordance with Article 62. ***Infrastructure managers shall use that single interface*** to manage capacity allocation in a single place and operation. ***Connected or grouped rail services shall have one infrastructure manager as the single point of contact. Such connected or grouped rail services shall be declared in the capacity request.***

Amendment 121

Proposal for a regulation

Article 27 – paragraph 6 – subparagraph 1

Text proposed by the Commission

The infrastructure manager shall cancel a capacity right which, over a period of at least one month, has been used less than a threshold quota, to be laid down in the network statement, unless this was due to non-economic reasons beyond the applicant's control. ENIM shall define ranges for the threshold quota and include them in the European framework for capacity management referred to in Article 6.

Amendment

The infrastructure manager shall cancel a capacity right which, over a period of at least one month, has been used less than a threshold quota, to be laid down in the network statement, unless this was due to non-economic reasons beyond the applicant's control. ENIM shall ***consult with ERP to*** define ranges for the threshold quota and include them in the European framework for capacity management referred to in Article 6.

Amendment 122

Proposal for a regulation

Article 27 – paragraph 7

Text proposed by the Commission

7. Where the infrastructure manager cancels, in accordance with paragraph 6, multi-network capacity rights, the regulatory body responsible for that infrastructure manager shall inform the relevant regulatory bodies and the ENRRB.

Amendment

7. Where the infrastructure manager cancels, in accordance with paragraph 6, multi-network capacity rights, ***it shall inform*** the regulatory body responsible for that infrastructure manager. ***That regulatory body*** shall inform the relevant regulatory bodies and the ENRRB.

Amendment 123
Proposal for a regulation
Article 27 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. The infrastructure manager shall be allowed to use, where relevant, specific timetabling approaches. If the infrastructure manager decides to pre-plan capacity by using systematic train paths with cross-border relevance, the infrastructure manager shall coordinate with neighbouring infrastructure managers and other concerned infrastructure managers concerned to find mutually agreed solutions for cross-border traffic. Regardless of the national choice Member States follow for their timetabling, infrastructure managers shall ensure a balanced, fair and non-discriminatory allocation of train paths. As regards the compensation for changes to capacity rights referred to in Article 40 that also involve systematic train paths, its value shall be set at least 1, 25 times the value defined for non-systematic train paths according to the process laid out in Article 40.

Amendment 124
Proposal for a regulation
Article 27 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7 b. Infrastructure managers shall inform the regulatory body of all capacity requests received that did not fit the parameters of the available capacity as defined in the capacity supply plan, regardless of whether they were accepted or refused. On the basis of this information, the regulatory body shall issue an opinion at least every two years, in which it may recommend to the infrastructure manager to amend the

capacity model.

Amendment 125

Proposal for a regulation

Article 28 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) the appointment of a ***single point of contact*** in charge of communication with the applicant in relation to ***the*** request for multi-network capacity right, which shall be notified to the applicant without delay after receipt of the request;

Amendment

(a) the appointment of a ***one-stop shop, as referred to in Article 27(4)***, in charge of communication with the applicant in relation to ***each*** request for multi-network capacity right, which shall be notified to the applicant without delay after receipt of the request. ***This shall also apply in the case of cross-border train pairs which are international train services to and from a destination in another Member State;***

Amendment 126

Proposal for a regulation

Article 28 – paragraph 5

Text proposed by the Commission

5. ENIM shall define the detailed procedures and methods to implement this Article and the minimum quality requirements referred to in paragraph 2(b) and include them in the European framework for capacity management referred to in Article 6.

Amendment

5. ***By ... [24 months from the entry into force of this Regulation] and in consultation with ERP,*** ENIM shall define the detailed procedures and methods to implement this Article and the minimum quality requirements referred to in paragraph 2(b) and include them in the European framework for capacity management referred to in Article 6.

Amendment 127

Proposal for a regulation

Article 28 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The Commission shall, by ... [24 months from the entry into force of this Regulation], adopt implementing acts to set out the detailed procedures and methods to implement this Article and the

minimum quality requirements referred to in paragraph 2(b) and to amend paragraph 5 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3). They shall be included in the European framework for capacity management.

Amendment 128
Proposal for a regulation
Article 29 – paragraph 1

Text proposed by the Commission

1. Operators of service facilities that provide indicative information on available service facility capacity in accordance with Article 6(3) of Commission Implementing Regulation (EU) 2017/2177²² shall cooperate with infrastructure managers for the purpose of the latter offering train paths that include **rail** facility capacity. Other operators of service facilities may enter into an agreement with infrastructure managers for the joint provision of capacity.

²² Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services (OJ L 307, 23.11.2017, p. 1).

Amendment

1. Operators of service facilities that provide indicative information on available service facility capacity in accordance with Article 6(3) of Commission Implementing Regulation (EU) 2017/2177²² shall cooperate with infrastructure managers for the purpose of the latter offering train paths that include **service** facility capacity. Other operators of service facilities may enter into an agreement with infrastructure managers for the joint provision of capacity.

²² Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services (OJ L 307, 23.11.2017, p. 1).

Amendment 129
Proposal for a regulation
Article 29 – paragraph 3

Text proposed by the Commission

3. Infrastructure managers shall ensure that applicants can request in one place **and** operation capacity rights on railway infrastructure and in the service facilities referred to in paragraph 1.

Amendment

3. Infrastructure managers shall ensure that applicants can request in one place **established in accordance with Article 27(4), the** operation capacity rights on railway infrastructure and in the service facilities referred to in paragraph 1.

Amendment 130
Proposal for a regulation
Article 29 – paragraph 4

Text proposed by the Commission

4. For the purpose of paragraph 3, infrastructure managers and service **facility** operators shall coordinate the capacity and shall provide capacity rights including capacity in the **rail** facility that meets the requirements of the applicant or shall make an effort to provide a viable alternative.

Amendment

4. For the purpose of paragraph 3, infrastructure managers and **operators of service facilities** operators shall coordinate the capacity and shall provide capacity rights including capacity in the **service** facility that meets the requirements of the applicant or shall make an effort to provide a viable alternative.

Amendment 131
Proposal for a regulation
Article 29 – paragraph 5

Text proposed by the Commission

5. The operators of service facilities referred to in paragraph 1 shall make available information, **upon request or** in real time **where necessary**, about the available capacity to the infrastructure manager in a digital format in accordance with Article 62.

Amendment

5. The operators of **impacted** service facilities referred to in paragraph 1 shall make available information, in real time, about the available capacity to the infrastructure manager in a digital format in accordance with Article 62.

Amendment 132
Proposal for a regulation
Article 29 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. When requesting capacity rights to access a service facility, applicants shall document the agreement of the service facility owner to accommodate their vehicles.

Amendment 133
Proposal for a regulation
Article 29 – paragraph 6

Text proposed by the Commission

6. For the purpose of this Article and in accordance with Article 62, ENIM shall provide guidelines on the functional and technical requirements for the exchange of information between the operators of *rail* facilities and infrastructure managers *for the purposes of this Article*. Without prejudice to Article 2 of Implementing Regulation (EU) 2017/2177, operators of service facilities may request to be exempted from the application of this Article. Such requests shall be submitted to the regulatory body and be duly substantiated. Regulatory bodies may decide to extend an exemption in duly justified cases.

Amendment

6. For the purpose of this Article and in accordance with Article 62, ENIM shall, ***upon approval by ERA and by ... [24 months from the entry into force of this Regulation]***, provide guidelines on the functional and technical requirements for the exchange of information between the operators of *service* facilities and infrastructure managers. Without prejudice to Article 2 of Implementing Regulation (EU) 2017/2177, operators of service facilities may request to be exempted from the application of this Article. Such requests shall be submitted to the regulatory body and be duly substantiated. Regulatory bodies may decide to extend an exemption in duly justified cases.

Amendment 134
Proposal for a regulation
Article 29 – paragraph 7

Text proposed by the Commission

7. The ENRRB shall monitor the application of paragraph 7 and shall provide recommendations on the criteria to be used in assessing the requests for exemptions.

Amendment

7. The ENRRB shall monitor the application of paragraph **6** and shall provide recommendations on the criteria to be used in assessing the requests for exemptions.

Amendment 135
Proposal for a regulation
Article 29 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. Infrastructure managers shall inform the regulatory body of all capacity requests received that did not fit the parameters of the available capacity as

defined in the capacity supply plan, and were therefore refused. On the basis of this information, the regulatory body shall issue an opinion at least every two years, in which it may recommend to the infrastructure manager to amend the capacity model.

Amendment 136
Proposal for a regulation
Article 29 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7 b. The Commission shall adopt, by ... [24 months from the entry into force of this Regulation], implementing acts to set out details on the functional and technical requirements for the exchange of information between the operators of rail facilities and infrastructure managers for the purposes of this Article and to amend paragraph 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Amendment 137
Proposal for a regulation
Article 30 – paragraph 2

Text proposed by the Commission

Amendment

2. Infrastructure managers shall ***continuously*** update the working timetable until the end of the working timetable period, taking into account capacity allocated through the rolling planning process referred to in Article 33, capacity allocated through the ad hoc process referred to in Article 34, changes to capacity rights in accordance with Article 39 and rescheduling in the context of disruption management and crisis management in accordance with Article 41.

2. Infrastructure managers shall ***at regular intervals*** update the working timetable until the end of the working timetable period, taking into account capacity allocated through the rolling planning process referred to in Article 33, capacity allocated through the ad hoc process referred to in Article 34, changes to capacity rights in accordance with Article 39 and rescheduling in the context of disruption management and crisis management in accordance with Article 41.

Amendment 138
Proposal for a regulation
Article 31 – paragraph 1 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

Framework agreements shall be notified to the regulatory body and shall be approved by it. In the case of multi-network framework agreements, the approval shall take into account the opinion of the ENRRB.

Amendment 139
Proposal for a regulation
Article 31 – paragraph 3

Text proposed by the Commission

Amendment

3. Infrastructure managers shall conclude framework agreements only where the capacity right requested is consistent with the planning documents of the strategic capacity planning referred to in Article 11(2). Infrastructure managers shall indicate the capacity that they plan to reserve for allocation through framework agreements in these planning documents.

3. Infrastructure managers shall conclude framework agreements only where the capacity right requested is consistent with the planning documents of the strategic capacity planning referred to in Article 11(2). Infrastructure managers, ***after consultation with the neighbouring networks***, shall indicate the capacity that they plan to reserve for allocation through framework agreements in these planning documents.

Amendment 140
Proposal for a regulation
Article 31 – paragraph 4

Text proposed by the Commission

Amendment

4. Framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services. For this purpose, infrastructure managers shall set the maximum shares of total capacity that can be allocated through framework agreements and include these in the network statement.

4. Framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services. For this purpose, infrastructure managers shall, ***after consultation with the regulatory body***, set the maximum shares of total capacity that can be allocated through framework agreements and include these in the network statement.

Infrastructure managers of neighbouring countries who have concluded cross-border framework agreements shall align these maximum shares of total capacity and make them as consistent as possible.

Amendment 141
Proposal for a regulation
Article 31 – paragraph 7

Text proposed by the Commission

7. Framework agreements shall, in principle, cover the period indicated in section 5 of Annex I. The infrastructure manager may agree to a shorter or longer period in specific cases. Any period longer than the period indicated in *point 5* of Annex I shall be justified by the requirement of dedicated investments by new entrants or by the substantial novelty of the service.

Amendment

7. Framework agreements shall, in principle, cover the period indicated in section 5 of Annex I. The infrastructure manager may agree to a shorter or longer period in specific cases. Any period longer than the period indicated in *section 5* of Annex I shall be justified by the requirement of dedicated investments by new entrants or by the substantial novelty of the service.

Amendment 142
Proposal for a regulation
Article 31 – paragraph 11

Text proposed by the Commission

11. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the ENRRB, the Commission *may* adopt an implementing act *setting* out the details of the procedure and criteria to be followed for the uniform application of this Article and of Article 33. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Amendment

11. Based on the experience of regulatory bodies, competent authorities and railway undertakings and based on the activities of the ENRRB, the Commission *shall, by... [24 months from the entry into force of this Regulation],* adopt an implementing act *to set* out the details of the procedure and criteria to be followed for the uniform application of this Article and of Article 33 *and to amend this Article and in Article 33*. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Amendment 143
Proposal for a regulation
Article 32 – paragraph 3

Text proposed by the Commission

3. In the event of a conflict between two or more capacity requests, the infrastructure managers shall first attempt to resolve the conflict through the consensual **consultation** mechanism referred to in Article 36.

Amendment

3. In the event of a conflict between two or more capacity requests, **or in the event of capacity requests not consistent with the capacity supply plan**, the infrastructure managers shall first attempt to resolve the conflict through the consensual **conflict resolution** mechanism referred to in Article 36.

Amendment 144
Proposal for a regulation
Article 32 – paragraph 5 – subparagraph 1

Text proposed by the Commission

In accordance with Article 18 and Article 20, the infrastructure manager shall give priority to requests that are consistent with the pre-planned capacity defined in the capacity supply plan. **As a result, the infrastructure manager may either accept or refuse requests that are not consistent with the capacity supply plan.**

Amendment

In accordance with Article 18 and Article 20, the infrastructure manager shall give priority to requests that are consistent with the pre-planned capacity defined in the capacity supply plan, **provided operational stakeholders had been duly consulted and their announcements of capacity had been taken into account to the utmost extent.**

Amendment 145
Proposal for a regulation
Article 32 – paragraph 5 – subparagraph 2

Text proposed by the Commission

When accepting requests not consistent with the capacity supply plan, the infrastructure manager shall aim to maintain the overall balance between the elements of the capacity supply plan listed in Article 18(6).

Amendment

When accepting requests not consistent with the capacity supply plan, the infrastructure manager shall aim to maintain the overall balance between the elements of the capacity supply plan listed in Article 18(6) **and the request itself. These applications are to be taken into account if there is enough free capacity available without restricting the needs for subsequent applications.**

Amendment 146
Proposal for a regulation
Article 32 – paragraph 5 – subparagraph 3

Text proposed by the Commission

When **refusing** requests not consistent with the capacity supply plan, the infrastructure manager shall, without delay, inform the applicant concerned of its intention to refuse a request. The latter shall have the right to lodge a complaint with the regulatory body.

Amendment

When **processing** requests not consistent with the capacity supply plan, **the infrastructure manager should offer an alternative and, where time-wise possible, preceded by consultation with the applicants concerned. If no alternative offer is possible when refusing a request,** the infrastructure manager shall, without delay, inform the applicant concerned of its intention to refuse a request. The latter shall have the right to lodge a complaint with the regulatory body.

Amendment 147
Proposal for a regulation
Article 32 – paragraph 8

Text proposed by the Commission

8. The infrastructure manager shall consider requests submitted after the initial deadline and prior to the final deadline set out in **point** 4 of Annex I. In such cases, the infrastructure managers shall allocate capacity rights in accordance with section 4, point 2 of Annex I.

Amendment

8. The infrastructure manager shall consider requests submitted after the initial deadline and prior to the final deadline set out in **section** 4 of Annex I. In such cases, the infrastructure managers shall allocate capacity rights in accordance with section 4, point 2 of Annex I.

Amendment 148
Proposal for a regulation
Article 33 – paragraph 1

Text proposed by the Commission

1. Infrastructure managers shall allocate capacity through the rolling planning process in accordance with the deadlines set out in **point** 6 of Annex I. Infrastructure managers shall reserve capacity for this purpose in the capacity supply plan referred to in Article 18.

Amendment

1. Infrastructure managers shall allocate capacity through the rolling planning process in accordance with the deadlines set out in **section** 6 of Annex I. Infrastructure managers shall reserve capacity for this purpose in the capacity supply plan referred to in Article 18.

Amendment 149
Proposal for a regulation
Article 33 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) capacity specifications for all running days beyond the working timetable period comprising the first day included in the request for a maximum period specified in **point** 6 of Annex I.

Amendment

(b) capacity specifications for all running days beyond the working timetable period comprising the first day included in the request for a maximum period specified in **section** 6 of Annex I.

Amendment 150
Proposal for a regulation
Article 33 – paragraph 3

Text proposed by the Commission

3. Without prejudice to Article 18, infrastructure managers shall allocate capacity reserved for the rolling planning allocation process on the basis of the allocation principle set out in section 5, point 2 of Annex I.

Amendment

3. Without prejudice to Article 18, infrastructure managers shall allocate capacity reserved for the rolling planning allocation process on the basis of the allocation principle set out in section **6**, point 2 of Annex I.

Amendment 151
Proposal for a regulation
Article 33 – paragraph 4

Text proposed by the Commission

4. In accordance with the rules and procedures set out in Article 20, infrastructure managers **may refuse to allocate** capacity for rolling planning requests if requests are inconsistent with the capacity supply plan adopted in accordance with Article 18. **A refusal shall be communicated to the applicant without delay.** The applicant shall have the right to lodge a complaint with the regulatory body.

Amendment

4. In accordance with the rules and procedures set out in Article 20, infrastructure managers **shall try their utmost to offer alternative** capacity for rolling planning requests if requests are inconsistent with the capacity supply plan adopted in accordance with Article 18. **If it is not possible to offer an alternative, the infrastructure manager may refuse to allocate capacity to such inconsistent request.** The applicant shall have the right to lodge a complaint with the regulatory body.

Amendment 152
Proposal for a regulation
Article 33 – paragraph 5

Text proposed by the Commission

5. *Infrastructure managers shall inform the regulatory body of all capacity requests received that did not fit the parameters of the available capacity as defined in the capacity supply plan, regardless of whether they were accepted or refused. On the basis of this information the regulatory body shall issue an opinion at least every two years, which may recommend to the infrastructure manager to amend the capacity model.*

Amendment

5. *Delete*

Amendment 153
Proposal for a regulation
Article 36 – paragraph 8

Text proposed by the Commission

8. ENIM shall prepare guidelines for the consensual conflict resolution mechanism for multi-network capacity requests and include them in the European framework for capacity management referred to in Article 6.

Amendment

8. *By ... [24 months from the entry into force of this Regulation] and after following consultation with ERP, ENIM shall prepare guidelines for the consensual conflict resolution mechanism for multi-network capacity requests and include them in the European framework for capacity management referred to in Article 6.*

Amendment 154
Proposal for a regulation
Article 36 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. *The Commission shall, by [24 months from the entry into force of this Regulation], adopt an implementing act to set out the details of the procedure and criteria to be followed for the consensual*

conflict resolution mechanism for multi-network capacity requests and to amend paragraph 8 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3). They shall be included in the European framework for capacity management.

Amendment 155
Proposal for a regulation
Article 37 – paragraph 2

Text proposed by the Commission

2. In the context of the formal conflict resolution **process**, requests for multi-network capacity rights shall be taken into consideration in their entirety. If, in accordance with Article 8(6), different national parameters apply, those parameters shall be used for the respective sections.

Amendment

2. In the context of the formal conflict resolution **mechanism**, requests for multi-network capacity rights shall be taken into consideration in their entirety. If, in accordance with Article 8(6), different national parameters apply, those parameters shall be used for the respective sections.

Amendment 156
Proposal for a regulation
Article 37 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. In this respect, the ENRRB shall compile guidelines to facilitate the harmonised application of Article 3.

Amendment 157
Proposal for a regulation
Article 39 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. In the cases where capacity is reserved but not used, a compensation payment shall apply in accordance to Article 40.

Amendment 158
Proposal for a regulation
Article 39 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The infrastructure manager shall offer alternative capacity rights to the applicant within the deadlines set out in section 8 of Annex I. Where ***this is not possible***, the infrastructure manager shall provide the applicant with relevant information enabling the applicant to place a new request for infrastructure capacity. Where relevant, that information shall make reference to the capacity supply plan referred to in Article 18 and the contingency planning referred to in Article 19.

Amendment

The infrastructure manager shall offer alternative capacity rights to the applicant within the deadlines set out in section 8 of Annex I. Where ***no alternative offer is feasible in accordance with Article 32(5) and Article 33 (4)***, the infrastructure manager(s) shall provide the applicant with relevant information enabling the applicant to place a new request for infrastructure capacity. Where relevant, that information shall make reference to the capacity supply plan referred to in Article 18 and the contingency planning referred to in Article 19.

Amendment 159
Proposal for a regulation
Article 39 – paragraph 8 – subparagraph 1

Text proposed by the Commission

ENIM shall prepare and adopt harmonised procedures to manage changes to capacity rights after allocation and include them in the European framework for capacity management referred to in Article 6.

Amendment

By ... [12 months from the entry into force of this Regulation], ENIM shall prepare and adopt harmonised procedures to manage changes to capacity rights after allocation and include them in the European framework for capacity management referred to in Article 6.

Amendment 160
Proposal for a regulation
Article 39 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. The Commission shall be empowered to adopt, delegated acts in accordance with Article 71 to set out rules and procedures to manage changes to capacity rights after allocation and to

amend paragraph 8 of this Article. Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation]. They shall be included in the European framework for capacity management.

Amendment 161
Proposal for a regulation
Article 40 – paragraph 3

Text proposed by the Commission

3. Following a consultation of the ENRRB, ENIM shall define harmonised conditions giving rise to compensation. Those conditions shall take into account the rules set out in Article 39(4) and (8). ENIM shall include these conditions in the European framework for capacity management referred to in Article 6. The ENRRB shall publish an opinion on the conditions defined by ENIM.

Amendment

3. Following a consultation of the ENRRB **and ERP**, ENIM shall, **by [12 months from the entry into force of this Regulation]**, define harmonised conditions giving rise to compensation. Those conditions shall take into account the rules set out in Article 39(4) and (8). ENIM shall include these conditions in the European framework for capacity management referred to in Article 6. The ENRRB shall publish an opinion on the conditions defined by ENIM.

Amendment 162
Proposal for a regulation
Article 40 – paragraph 6

Text proposed by the Commission

6. Regulatory bodies shall decide on disputes related to the reason for the change to a capacity right or **delayed** compensation and shall take a decision without delay and within one month of collecting all the necessary information to assess the cause of the change. Regulatory bodies shall inform and may consult the ENRRB on such decisions. The ENRRB shall ensure that such decisions are coherent and based on commonly recognized principles.

Amendment

6. Regulatory bodies shall decide on disputes related to the reason for the change to a capacity right or **delays in the payment of the** compensation and shall take a decision without delay and within one month of collecting all the necessary information to assess the cause of the change. Regulatory bodies shall inform and may consult the ENRRB on such decisions. The ENRRB shall ensure that such decisions are coherent and based on commonly recognized principles.

Amendment 163
Proposal for a regulation
Article 40 – paragraph 7

Text proposed by the Commission

7. The Commission *may* adopt **implementing acts** setting out the conditions giving rise to the payment of compensations, the categorisation of changes to capacity rights and the methodologies to set the levels of compensation. **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).**

Amendment

7. The Commission **shall be empowered to adopt delegated acts in accordance with Article 71 to set** out the conditions giving rise to the payment of compensations, the categorisation of changes to capacity rights and the methodologies to set the levels of compensation **and to amend paragraph 2 of this Article.** Those *delegated* acts shall be adopted by ... **[24 months from the entry into force of this Regulation]. They shall be included in the European framework for capacity management.**

Amendment 164
Proposal for a regulation
Article 41 – paragraph 2 – subparagraph 1

Text proposed by the Commission

ENIM shall develop and adopt guidelines for managing and allocating infrastructure capacity in the event of a network disruption in a transparent and non-discriminatory way. In particular, ENIM shall provide guidelines on the application of the simultaneous capacity allocation process and the first come, first served principle.

Amendment

By... [12 months from the entry into force of this Regulation], ENIM shall develop and adopt guidelines for managing and allocating infrastructure capacity in the event of a network disruption in a transparent and non-discriminatory way. In particular, ENIM shall provide guidelines on the application of the simultaneous capacity allocation process and the first come, first served principle.

Amendment 165
Proposal for a regulation
Article 41 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the simultaneous allocation process applies, ENIM shall provide guidelines on the procedures to applied, involving as

Amendment

Where the simultaneous allocation process applies, ENIM shall provide guidelines on the procedures to **be** applied, involving as

appropriate the application of the consensual conflict resolution **process** referred to in Article 36 and of the formal conflict resolution **process** referred to in Article 37. ENIM shall include those guidelines in the European framework for capacity management referred to in Article 6.

appropriate the application of the consensual conflict resolution **mechanism** referred to in Article 36 and of the formal conflict resolution **mechanism** referred to in Article 37. ENIM shall include those guidelines in the European framework for capacity management referred to in Article 6.

Amendment 166
Proposal for a regulation
Article 41 – paragraph 3

Text proposed by the Commission

3. When rescheduling, infrastructure managers shall not unilaterally change or cancel existing capacity rights for the purpose of managing disruptions. However, based on the experience of regulatory bodies, infrastructure managers and railway undertakings and on the activities of ENIM and the ENRRB, the Commission **may** adopt ***an implementing act*** setting out the criteria and procedures for rescheduling, including unilateral changes to allocated capacity rights by infrastructure managers for the purpose of managing network disruptions. ***That implementing act shall be adopted in accordance with the examination procedure referred to in Article 72(3).***

Amendment

3. When rescheduling, infrastructure managers shall not unilaterally change or cancel existing capacity rights for the purpose of managing disruptions. However, based on the experience of regulatory bodies, infrastructure managers and railway undertakings and on the activities of ENIM and the ENRRB, the Commission ***shall be empowered to adopt a delegated act in accordance with Article 71 to set*** out the criteria and procedures for rescheduling, including unilateral changes to allocated capacity rights by infrastructure managers for the purpose of managing network disruptions ***and to amend paragraph 2 of this Article. Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation]. They shall be included in the European framework for capacity management.***

Amendment 167
Proposal for a regulation
Article 42 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Infrastructure managers shall publish and make freely accessible the special rules and procedures referred to in paragraph 2. They shall notify them to

Amendment 168
Proposal for a regulation
Article 43 – paragraph 1

Text proposed by the Commission

1. Infrastructure managers shall put in place rules and procedures to manage deviations of train movements from the working timetable. Those rules and procedures shall be published in the network statement referred to in Article 27 of Directive 2012/34/EU and shall cover traffic management in the situations set out in Article 42(1), points (a), (b) and (c) of this Regulation.

Amendment

1. ***By ... [18 months from the entry into force of this Regulation]***, infrastructure managers shall put in place rules and procedures to manage deviations of train movements from the working timetable. Those rules and procedures shall be published in the network statement referred to in Article 27 of Directive 2012/34/EU and shall cover traffic management in the situations set out in Article 42(1), points (a), (b) and (c) of this Regulation.

Amendment 169
Proposal for a regulation
Article 43 – paragraph 2

Text proposed by the Commission

2. The rules and procedures referred to in paragraph 1 shall aim at minimising the overall impact of deviations from the timetable on rail traffic, taking into account the needs of all types of transport. The ***principles*** may involve priority rules for the management between the different types of traffic and the specific procedures, criteria and targets to be applied in an optimisation-based approach that relies on the optimisation of a target function, such as the minimization of the delay minutes or of the time to return to normal operations, rather than explicit priority rules.

Amendment

2. The rules and procedures referred to in paragraph 1 shall aim at minimising the overall impact of deviations from the timetable on rail traffic, taking into account the needs of all types of transport. The ***rules and procedures*** may involve priority rules for the management between the different types of traffic and the specific procedures, criteria and targets to be applied in an optimisation-based approach that relies on the optimisation of a target function, such as the minimization of the delay minutes or of the time to return to normal operations, rather than explicit priority rules.

Amendment 170
Proposal for a regulation
Article 43 – paragraph 3

Text proposed by the Commission

3. In the event of a disruption to train movements caused by technical failure or accident, the infrastructure manager shall take all necessary steps to restore the situation to normal. To that end, it shall implement a contingency plan in accordance with Article 19. In the event of a disturbance which has a potential impact on cross-border traffic, the infrastructure managers concerned shall cooperate with each other to restore the cross-border traffic to normal in accordance with the European framework for the coordination of traffic, disruption and crisis management referred to in Article 44.

Amendment 171
Proposal for a regulation
Article 43 – paragraph 4 a (new)

Amendment

3. In the event of a disruption to train movements caused by technical failure or accident, the infrastructure manager shall, ***without delay***, take all necessary steps to restore the situation to normal. To that end, it shall implement a contingency plan in accordance with Article 19. In the event of a disturbance which has a potential impact on cross-border traffic, the infrastructure managers concerned shall cooperate with each other to restore the cross-border traffic to normal in accordance with the European framework for the coordination of traffic, disruption and crisis management referred to in Article 44.

Text proposed by the Commission

Amendment 172
Proposal for a regulation
Article 43 – paragraph 5 – subparagraph 1

In cases of force majeure, and, where absolutely necessary, on account of an incident making the infrastructure temporarily unusable, allocated capacity rights may be withdrawn without warning for as long as is necessary to repair the system.

Amendment

4 a. Deviations shall only be allowed in duly justified cases and shall be approved by the national regulatory body.

Text proposed by the Commission

In cases of force majeure, and, where absolutely necessary, on account of an incident making the infrastructure temporarily unusable, allocated capacity rights may be withdrawn without warning for as long as is necessary to repair the system ***whilst at the same time making the utmost efforts to provide possible alternatives.***

Amendment 173
Proposal for a regulation
Article 43 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. In the case of a capacity withdrawal, infrastructure managers shall inform railway undertakings timely on their time management, on progress of repairs and on possible alternatives to their allocated capacity.

Amendment 174
Proposal for a regulation
Article 43 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. The Commission shall adopt, by [24 months from the entry into force of this Regulation], implementing acts to set out rules and procedures to manage deviations of train movements from the working timetable and amend paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Amendment 175
Proposal for a regulation
Article 44 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

ENIM shall develop the European framework for the coordination of cross-border traffic management, disruption management and crisis management in cooperation with operational stakeholders and interested parties through the consultation process referred to in Article 54, taking into account the work of the Europe's Rail Joint Undertaking established in Title IV of Regulation (EU

ENIM shall develop the European framework for the coordination of cross-border traffic management, disruption management and crisis management in cooperation with operational stakeholders and interested parties through the consultation process referred to in Article 54, taking into account the work of the Europe's Rail Joint Undertaking established in Title IV of Regulation (EU)

Amendment 176
Proposal for a regulation
Article 44 – paragraph 2

Text proposed by the Commission

2. The European framework for the coordination of cross-border traffic management, disruption management and crisis management shall provide guidelines for the coordination between infrastructure managers, railway undertakings and other operational stakeholders.

Amendment

2. The European framework for the coordination of cross-border traffic management, disruption management and crisis management shall provide guidelines for the coordination between infrastructure managers, railway undertakings and other operational stakeholders, **including ENRRB**.

Amendment 177
Proposal for a regulation
Article 44 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. Taking into account the framework adopted by ENIM in accordance with paragraph 1, the Commission shall be empowered , to adopt delegated acts in accordance with Article 71 to set out the details for the coordination of cross-border traffic management, disruption management and crisis management and to amend paragraph 2 of this Article. Those delegated acts shall be adopted by ... [24 months from the entry into force of this Regulation].

Amendment 178
Proposal for a regulation
Article 46 – paragraph 2

Text proposed by the Commission

2. Where the incident has, or is likely to have, impacts on more than one network, the infrastructure **manager where** the incident took place shall declare a multi-

Amendment

2. Where the incident has, or is likely to have, impacts on more than one network, the **manager of the** infrastructure **in which** the incident took place shall declare a

network disruption and coordinate actions in accordance with Articles 44, 45 and 53.

multi-network disruption and coordinate actions in accordance with Articles 44, 45 and 53.

Amendment 179
Proposal for a regulation
Article 46 – paragraph 3

Text proposed by the Commission

3. ENIM shall define a harmonised method to estimate the likely duration and impact of network disruptions and include it in the European framework for the coordination of traffic and crisis management referred to in Article 44.

Amendment

3. ENIM shall define a harmonised method to estimate the likely duration and impact of network disruptions and include it in the European framework for the coordination of traffic, **disruption management** and crisis management referred to in Article 44.

Amendment 180
Proposal for a regulation
Article 46 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. In the case of a partial or total interruption of services caused by disruption of train operation due to a technical failure, incident or an accident on a cross-border line that lasts longer than 15 days, the impacted infrastructure managers shall, within 30 days of the occurrence, prepare an incident report. The incident report shall include at least:

a) information on all operational measures undertaken to ensure alternative routes;

b) information on all actions undertaken to restore regular services on the interrupted line.

The report shall be made publicly available and shall be regularly updated until the interruption is lifted.

ERA may issue recommendations on improved measures to address the disruption and the traffic capacity

restrictions caused by the accident.

Amendment 181

Proposal for a regulation

Article 47 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Member State concerned shall ensure that the emergency measures follow to the extent possible the principles on capacity and traffic management set out in this Regulation and that they make use of existing plans prepared in accordance with Article 19. **They** shall coordinate such emergency measures with other Member States.

Amendment

The Member State concerned shall ensure that the emergency measures follow to the extent possible the principles on capacity and traffic management set out in this Regulation and that they make use of existing plans prepared in accordance with Article 19. **It** shall coordinate such emergency measures with other Member States.

Amendment 182

Proposal for a regulation

Article 49 – paragraph 1

Text proposed by the Commission

1. In accordance with Article 7f, point (d) of Directive 2012/34/EU, ENIM shall monitor and benchmark performance of rail infrastructure services taking into account the **general objectives set out in Article 2 of this Regulation. Rail** infrastructure managers shall **also monitor** the performance **of rail transport services**.

Amendment

1. **The Commission shall adopt the Union performance targets for the performance areas set out in Annex VII. The targets shall be in accordance with modal shift goals and shall be updated regularly.** In accordance with Article 7f, point (d) of Directive 2012/34/EU, ENIM, **with the support of rail infrastructure managers** shall monitor and benchmark performance of rail infrastructure services **and rail transport services** taking into account the **Union and infrastructure managers performance targets. ENIM** shall **periodically inform** the Performance Review Body and the Commission.

Amendment 183

Proposal for a regulation

Article 49 – paragraph 2

Text proposed by the Commission

2. For this purpose, infrastructure managers shall **set out** their own performance targets in the plan referred to in Article 8(3) of Directive 2012/34/EU, taking into account any objectives set out in the contractual agreements referred to in Article 30 of that Directive. **They** shall put in place and perform procedures to monitor and report on progress towards the achievement of the targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance. These procedures shall take into account the European framework for performance review referred to in Article 50 of this Regulation. Infrastructure managers shall explain in the network statement the reason for any deviation from the common procedures established in the European framework for performance review.

Amendment

2. For this purpose, infrastructure managers shall **lay down** their own performance targets in the plan referred to in Article 8(3) of Directive 2012/34/EU, taking into account any objectives set out in the contractual agreements referred to in Article 30 of that Directive. **The infrastructure managers shall consult with the relevant national and European bodies in order to assure that those targets are consistent with Union performance targets.** They shall put in place and perform procedures to monitor and report on progress towards the achievement of the targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance. These procedures shall take into account the European framework for performance review referred to in Article 50 of this Regulation. Infrastructure managers shall explain in the network statement the reason for any deviation from the common procedures established in the European framework for performance review. **Deviations shall only be allowed in duly justified cases and shall be approved by the regulatory body.**

Amendment 184
Proposal for a regulation
Article 50 – paragraph 1

Text proposed by the Commission

1. ENIM shall set up and implement by [12 months **after** the entry into force of this Regulation] a European framework for the review of performance. This framework shall take into account in particular the principles defined in Article 2(3), Article 8(4), Article 42(3) and the operational requirements, the performance objectives and target values set out in [Article **18** of

Amendment

1. **ERA, with the support of** ENIM shall set up and implement by [12 months **from** the entry into force of this Regulation] a European framework for the review of performance. This framework shall take into account in particular the principles defined in Article 2(3), Article 8(4), Article 42(3) and the operational requirements, the performance objectives

the new TEN-T Regulation].

and target values set out in Article **19** of Regulation (EU) 2024/... [the new TEN-T Regulation].

Amendment 185
Proposal for a regulation
Article 50 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The ENRRB shall adopt a recommendation on the European framework for the review of performance by [six months from the entry into force of this Regulation]. While setting up and implementing the European framework for the review of performance, ERA shall take into account the recommendation issued by the ENRRB.

Amendment 186
Proposal for a regulation
Article 50 – paragraph 5

Text proposed by the Commission

Amendment

5. The Commission ***may*** adopt implementing acts, ***setting*** out detailed rules on the elements in paragraph 2, points (b) to (d), in accordance with the advisory procedure referred to in Article 72(2). In doing so, the Commission shall ***take into account the work done by ENIM in accordance with paragraph 3 and any recommendations of*** the performance review body.

5. The Commission ***shall, by [24 months from the entry into force of this Regulation],*** adopt implementing acts ***to set out uniform conditions for the application of the elements referred to in paragraph 2 of this Article by ... [36 months from the entry into force of this Regulation, including*** detailed rules on the elements in paragraph 2, points (b) to (d) ***and performance targets. Those implementing acts shall be adopted*** in accordance with the advisory procedure referred to in Article 72(2). In doing so, the Commission shall ***consult ENIM, ERP, ENRRB, the Performance Review Body, ERA and the Europe's Rail Joint Undertaking.***

Amendment 187
Proposal for a regulation
Article 51 – paragraph 1

Text proposed by the Commission

1. Without prejudice to Article 15 of Directive 2012/34/EU and Article 3 of Commission Implementing Regulation (EU) 2015/1100²³, ENIM shall prepare and publish by [24 months *after* the entry into force of this Regulation] a European performance review report on the basis of the European framework for performance review referred to in Article 50 of this Regulation and ***publish*** it every year.

²³ Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015, p. 1).

Amendment 188
Proposal for a regulation
Article 51 – paragraph 2

Text proposed by the Commission

2. The Performance Review Body shall ***prepare a self-standing section of the*** report providing its assessment of the performance of rail infrastructure services and rail transport services, recommendations on performance issues ***to be addressed with priority and recommendations on*** measures to improve performance.

Amendment

1. Without prejudice to Article 15 of Directive 2012/34/EU and Article 3 of Commission Implementing Regulation (EU) 2015/1100²³, ENIM shall prepare and publish by [24 months ***from*** the entry into force of this Regulation] a ***draft*** European performance review report on the basis of the European framework for performance review referred to in Article 50 of this Regulation and ***update*** it every year. ***Based on this report, ERA shall support the Commission in monitoring and reporting progress on the Union's objectives for rail, including forecasted rail traffic growth foreseen for 2030 and 2050. The draft European performance review report shall be sent to the Performance Review Body.***

²³ Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015, p. 1).

Amendment

2. The Performance Review Body shall ***elaborate and adopt the European performance review*** report, providing its assessment of the performance of rail infrastructure services and rail transport services, ***disagreements raised and*** recommendations on performance issues, ***including*** measures to improve performance, ***shall be included within the next upcoming programme in accordance***

with Article 55 (8).

Amendment 189
Proposal for a regulation
Article 51 – paragraph 3

Text proposed by the Commission

3. The performance review report shall cover at least the lines included in the European ***Transport Corridors referred to in Regulation [new TEN-T Regulation]*** and shall include the information required by [Article 53(3)(g)] ***thereof***. The information presented shall be sufficiently detailed in terms of geographical scope and should cover a sufficiently long period of time to allow for meaningful interpretations.

Amendment

3. The ***European*** performance review report shall cover at least the lines included in the ***Single*** European ***Railway Area*** and shall include the information required by Article 54(3)(g) ***of Regulation (EU) 2024/...[new TEN-T Regulation]***. The information presented shall be sufficiently detailed in terms of geographical scope and should cover a sufficiently long period of time to allow for meaningful interpretations.

Amendment 190
Proposal for a regulation
Article 51 – paragraph 4

Text proposed by the Commission

4. The performance review report shall include a dedicated section on the performance of coordination between infrastructure managers in accordance with Article 53 and on the consultation mechanism referred to in Article 54 of this Regulation.

Amendment

4. The ***European*** performance review report shall include a dedicated section on the performance of coordination between infrastructure managers in accordance with Article 53 and on the consultation mechanism referred to in Article 54 of this Regulation.

Amendment 191
Proposal for a regulation
Article 51 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4 a. The European performance review report shall contain a separate section about the implementation of the processes introduced by ENIM. It shall also contain an analysis of the progress in implementation in various Member States,

including reports concerning national exemptions and recommendations for further harmonisation.

Amendment 192
Proposal for a regulation
Article 52 – paragraph 1

Text proposed by the Commission

1. *In accordance with the procedure referred to in Article 73(3), the Commission may set up or designate an impartial and competent body to act as a Performance Review Body.*

Amendment

1. *By... [six months from the entry into force of this Regulation], a Performance Review Body shall be established as an impartial, competent and self-standing body. Its members shall be appointed on the basis of merit as well as to ensure a mix of skills and experience relevant to the rail capacity management.*

The members of the Performance Review Body shall be nominated by the Commission through a call for experts procedure. The Commission shall be empowered to adopt a delegated act in accordance with Article 71 to set out details of the organisation, governance and financing of the Performance Review Body. That delegated act shall be adopted by... [12 months from the entry into force of this Regulation].

When carrying out the tasks conferred upon it by this Regulation, the Performance Review Body shall be independent and shall not seek or follow instructions from any government of a Member State, from the Commission, from ERA or any other public or private entity.

Amendment 193
Proposal for a regulation
Article 52 – paragraph 2

Text proposed by the Commission

2. The Performance Review Body shall provide advice to the Commission and the

Amendment

2. The Performance Review Body shall provide advice to the Commission, **ERA**,

European Coordinators on matters related to the performance of rail infrastructure services and rail transport services, on request by the Commission or the European Coordinators.

ENIM and the European Coordinators on matters related to the performance of rail infrastructure services and rail transport services, on request by the Commission, **ERA** or the European Coordinators.

Amendment 194

Proposal for a regulation

Article 52 – paragraph 3 – point a

Text proposed by the Commission

(a) providing recommendations to ENIM as regards the establishment and review of the European framework for performance review referred to in Article 50, including on performance areas, performance issues to be addressed under each of the performance areas, harmonisation of methodologies, processes, criteria and definitions for the collection and analysis of data related to performance and performance indicators;

Amendment

(a) providing recommendations to **the Commission and** ENIM as regards the establishment and review of the European framework for performance review referred to in Article 50, including on performance areas, performance issues to be addressed under each of the performance areas, harmonisation of methodologies, processes, criteria and definitions for the collection and analysis of data related to performance and performance indicators;

Amendment 195

Proposal for a regulation

Article 52 – paragraph 3 – point b

Text proposed by the Commission

(b) providing recommendations to ENIM, the ENRRB, infrastructure managers, applicants, regulatory bodies, Member State authorities, and, where relevant, other stakeholders for corrective measures, on capacity management, traffic management, disruption management and crisis management;

Amendment

(b) providing recommendations to ENIM, **ERA**, the ENRRB, infrastructure managers, applicants, regulatory bodies, Member State authorities, and, where relevant, other stakeholders for corrective measures, on capacity management, traffic management, disruption management and crisis management;

Amendment 196

Proposal for a regulation

Article 52 – paragraph 3 – point c

Text proposed by the Commission

(c) reviewing the results of the draft European performance report and, preparing the *self-standing section* referred to in Article 51(2);

Amendment

(c) reviewing the results of the draft European performance *review* report and, preparing the *report* referred to in Article 51(2);

Amendment 197
Proposal for a regulation
Article 52 – paragraph 5

Text proposed by the Commission

5. ENIM, the Network Coordinator, infrastructure managers, regulatory bodies, the ENRRB and, where relevant, other stakeholders shall cooperate with the performance review body, in particular by providing information related to performance *on their own initiative or upon the body's request* and make the utmost effort to take into account its recommendations in their work on rail performance management.

Amendment

5. ENIM, the Network Coordinator, infrastructure managers, regulatory bodies, the ENRRB, *ERA* and, where relevant, other stakeholders shall cooperate with the performance review body, in particular by providing information related to performance and make the utmost effort to take into account its recommendations in their work on rail performance management.

Amendment 198
Proposal for a regulation
Article 53 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Coordination shall *cover all* lines and nodes which are part of the European Transport Corridors set out in Article 7 of and Annex III to [new TEN-T Regulation].

Amendment

Coordination shall *particularly be reinforced for those TEN-T* lines and nodes which are part of the European Transport Corridors set out in Article 7 of and Annex III to [new TEN-T Regulation].

Amendment 199
Proposal for a regulation
Article 53 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Member States and the public service authorities can extend the cover to other lines.

Amendment 200
Proposal for a regulation
Article 54 – paragraph 1

Text proposed by the Commission

1. ENIM shall prepare, adopt and implement guidelines to ensure appropriate and regular consultation of interested parties and include them in the European framework for capacity management referred to in Article 6, the European framework for the cross-border coordination of traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50. The **process** shall be developed and implemented with the support of the Network Coordinator and with the involvement of the **designated** focal points **of** infrastructure managers referred to in Article 60.

Amendment

1. ENIM shall, **by ... [12 months from the entry into force of this Regulation]** prepare, adopt and implement guidelines to ensure appropriate and regular consultation of interested parties, **including representatives from ERA and the Member States, as well as the representative bodies referred to in Article 38(4) of Regulation (EU) 2016/796** and include them in the European framework for capacity management referred to in Article 6, the European framework for the cross-border coordination of traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50. The **mechanism** shall be developed and implemented with the support of the Network Coordinator and with the involvement of the focal points **designated by** infrastructure managers referred to in Article 60.

Amendment 201
Proposal for a regulation
Article 54 – paragraph 2

Text proposed by the Commission

2. Where ENIM adopts an opinion or a recommendation likely to have an impact on railway undertakings, other applicants, other operational stakeholders and interested parties, it shall publish a draft for the consultation of concerned parties. The concerned parties shall be given an

Amendment

2. Where ENIM adopts an opinion or a recommendation likely to have an impact on railway undertakings, other applicants, other operational stakeholders and interested parties, **including representatives from ERA and the Member States, as well as the**

appropriate amount of time to provide feedback on the draft decision. Member State authorities shall be involved when required.

representative bodies referred to in Article 38 (4) of Regulation (EU) 2016/796, it shall publish a draft for the consultation of concerned parties. The concerned parties shall be given an appropriate amount of time to provide feedback on the draft decision. Member State authorities shall be involved when required. ***When ENIM takes a decision likely to have an impact on the ERP, ENIM shall consult the respective advisory groups.***

Amendment 202
Proposal for a regulation
Article 54 – paragraph 3

Text proposed by the Commission

3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall provide the reasons for doing so.

Amendment

3. ENIM shall take account of the feedback provided by concerned parties in accordance with paragraph 2 when adopting the final opinion or recommendation. Where ENIM fails to take into account significant elements of the feedback provided, it shall provide the ***justified*** reasons for doing so.

Amendment 203
Proposal for a regulation
Article 54 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. In the case of diverging views between ENIM and the consultative bodies, the consultative bodies shall inform the ENRRB. The ENRRB shall take account of such divergent views in its European performance review report referred to in Article 51.

Amendment 204
Proposal for a regulation
Article 54 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3 b. The Commission shall adopt, by ... [24 months from the entry into force of this Regulation], implementing acts to set out uniform conditions to ensure appropriate and regular consultation of interested parties and to amend paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3). They shall be included in the European framework for capacity management.

Amendment 205
Proposal for a regulation
Article 55 – paragraph 2

Text proposed by the Commission

Amendment

2. All rail infrastructure managers, **which are responsible for lines that form part of the core and extended core TEN-T network, referred to in [Article 6 of and Annex I to new TEN-T Regulation]**, shall be members of ENIM. They shall appoint a representative and an alternate.

2. All rail infrastructure managers of the **Single European Rail Area** shall be members of ENIM. They shall appoint a representative and an alternate

Amendment 206
Proposal for a regulation
Article 55 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall be a non-voting member of ENIM. **It** shall support the work of ENIM and facilitate coordination.

7. The Commission **and ERA** shall be a non-voting member of ENIM. **They** shall support the work of ENIM and facilitate coordination.

Amendment 207
Proposal for a regulation
Article 55 – paragraph 8

Text proposed by the Commission

8. ENIM shall define its work programme. The work programme shall cover at least a period of two years. ENIM shall consult applicants and other operational stakeholders through the consultation mechanism referred to in Article 54 on the draft work programme. In addition, it shall consult the European Commission, the European Union Agency for Railways and the Europe's Rail Joint Undertaking and, as appropriate, other stakeholders

Amendment

8. ENIM shall define its work programme. The work programme shall cover at least a period of two years. ENIM shall consult ***ERP, the advisory groups established in Article 55 a***, applicants and other operational stakeholders through the consultation mechanism referred to in Article 54 on the draft work programme. In addition, it shall consult the European Commission, the European Union Agency for Railways and the Europe's Rail Joint Undertaking and, as appropriate, other stakeholders

Amendment 208
Proposal for a regulation
Article 55 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. In the development of the European frameworks for capacity management, traffic management, and performance management, ENIM shall consult with ERP.

Amendment 209
Proposal for a regulation
Article 55 – paragraph 8 b (new)

Text proposed by the Commission

Amendment

8 b. Rail infrastructure managers and allocation bodies of third countries which are responsible for lines of the trans-European transport network shall be allowed to join ENIM as observers.

Text proposed by the Commission

Amendment

Article 55a

European Railway Platform

1. The European Railway Platform (ERP) is hereby established as a consultative body to ENIM.

2. ERP shall be composed of representatives of railway undertakings using European rail infrastructure. ERP may also include, as member, any applicant using European rail infrastructure individually or through associations, operators of service facilities and terminals, multimodal capacity stakeholders, such as sea and inland waterway ports and owners of other rail-related service facilities. Each member shall appoint one representative and one alternate. The Commission and ERA shall also be appointed as observers within ERP. The rail industry may be invited to attend consultative groups and discussions to enable better information and preparedness.

3. The Commission shall assist the ERP by establishing the modalities of functioning of ERP, including conditions for admission to the platform of representatives of the categories under paragraph 2.

4. Following the consultation of and the approval by the Commission, ERP shall adopt and publish its rules of procedure. It shall organise its activities in accordance of the rule of procedure. The ERP rules of procedure shall set, inter alia, the frequency of meetings and the organisation of its activities. ERP may organise its activities in subgroups, grouping stakeholder types and regional clusters.

5. ENIM shall consult ERP before preparing and adopting European frameworks for capacity management, traffic management and performance management. ERP may issue its own opinions, which shall be taken into account by ENIM. ERP may also issue own initiative opinions addressed to ERA and/or to the Commission.

6. Consultations under this Article shall be without prejudice to the right of applicants to appeal decisions by ENIM.

7. ERP shall address to ERA and to the Commission an annual report of its activities. This report shall be published.

Amendment 211
Proposal for a regulation
Article 57 – paragraph 2

Text proposed by the Commission

2. ENIM shall invite the Commission, including the European Coordinators and, where relevant, representatives of the Member States, to its meetings with a view to discuss issues related to the development of rail infrastructure and to ensure cooperation with the European Coordinators, as outlined in [new TEN-T Regulation]. ENIM shall provide the information required under [Article 53, third subparagraph of the new TEN-T Regulation].

Amendment

2. ENIM shall invite the Commission, including the European Coordinators, **ERP** and, where relevant, representatives of **ERA and** the Member States, **as well as the representative bodies as referred to in Article 38(4) of Regulation (EU) 2016/796** to its meetings with a view to discuss issues related to the development of rail infrastructure and to ensure cooperation with the European Coordinators, as outlined in [new TEN-T Regulation]. ENIM shall provide the information required under [Article 53, third subparagraph of the new TEN-T Regulation].

Amendment 212
Proposal for a regulation
Article 57 a (new)

Text proposed by the Commission

Amendment

Article 57a

Responsibilities of ERA

1. In addition to the tasks laid down in Regulation (EU) 2016/796, ERA shall be responsible for all tasks assigned to it in this Regulation. It shall, in particular:

(a) provide support, upon request from the Commission in preparing the specific implementing and delegated acts foreseen by this Regulation;

(b) coordinate, as system authority, according to Article 23 of Regulation (EU) 2016/796 the tasks as set out in Article 62 of this Regulation;

(c) fulfil the tasks as set out in Article 50 of this Regulation;

(d) provide, on request, support to the regulatory bodies in identifying rules, procedures and tools within the scope of this Regulation;

(e) identify obstacles for multi-network rail services;

2. In its work, the Agency shall:

a) draw up its recommendations based on the work of ENIM and the network coordinator;

b) where appropriate, take account of technical progress and acknowledged research work;

c) take account of the estimated costs and benefits of its recommendations and underline the most viable solutions;

d) fulfil the criteria of openness, consensus and transparency as defined in Annex II to Regulation (EU) No 1025/2012.

3. The amount of the financial resources dedicated to the performance of ERA tasks under this regulation shall be drawn from the unallocated margins under MFF ceilings or mobilised through the non-thematic MFF special instruments.

Amendment 213
Proposal for a regulation
Article 58 – paragraph 1 – subparagraph 1

Text proposed by the Commission

The infrastructure managers shall provide ENIM with the necessary resources to perform its tasks. For this purpose, **they** shall appoint by [12 months **after** the entry into force of this Regulation] an impartial and competent entity to fulfil the functions referred to in Article 59. Such entity will be designated as a Network Coordinator.

Amendment

The infrastructure managers shall provide ENIM with the necessary resources to perform its tasks. For this purpose, **the Commission** shall, **after consultation with Member States and ENIM**, appoint by [six months **from** the entry into force of this Regulation] an impartial and competent entity to fulfil the functions referred to in Article 59. Such entity will be designated as a Network Coordinator. **ENIM may decide to change the entity appointed as Network Coordinator with consent of the Commission.**

Amendment 214
Proposal for a regulation
Article 58 – paragraph 2

Text proposed by the Commission

2. The Network Coordinator shall execute its tasks in an impartial and cost-effective manner and shall act on behalf of ENIM. For this purpose, it shall submit to ENIM its annual work programme with respect to the tasks set out in this Regulation as well as an annual report on the implementation of the work programme.

Amendment

2. The Network Coordinator shall execute its tasks in an impartial and cost-effective manner and shall act on behalf of ENIM **and the Commission**. For this purpose, it shall submit to ENIM **and the Commission** its annual work programme with respect to the tasks set out in this Regulation as well as an annual report on the implementation of the work programme.

Amendment 215
Proposal for a regulation
Article 59 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) provide existing and new shared B2B-services to Infrastructure Managers and Railway Undertakings to improve rail

services and boost trans-European rail traffic.

Amendment 216
Proposal for a regulation
Article 61 – paragraph 1

Text proposed by the Commission

1. ENIM shall prepare and adopt a common structure for the network statement referred to in Article 27 of Directive 2012/34/EU, which shall take into consideration the information listed in Annex IV to that Directive, Annex IV to this Regulation, and a common schedule for the consultation of interested parties on the draft network statement. Infrastructure managers shall take the utmost account of this structure and schedule when preparing the network statement.

Amendment

1. ENIM shall, ***by [12 months from the entry into force of this Regulation],*** prepare and adopt a common structure for the network statement referred to in Article 27 of Directive 2012/34/EU, which shall take into consideration the information listed in Annex IV to that Directive, Annex IV to this Regulation, and a common schedule for the consultation of interested parties on the draft network statement. Infrastructure managers shall take the utmost account of this structure and schedule when preparing the network statement.

Amendment 217
Proposal for a regulation
Article 62 – paragraph 2 – point b

Text proposed by the Commission

(b) improve the transparency of rail capacity management and traffic management throughout all their phases;

Amendment

(b) improve the transparency of rail capacity management and traffic management throughout all their phases, ***including digital and real time solutions which shall be gradually elaborated with relevant stakeholders;***

Amendment 218
Proposal for a regulation
Article 62 – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

Where applicable, the digital tools and the digital services shall comply with TAF/TAP TSI and RINF, referred to in

Article 49 of Directive EU 2016/797, to ensure interoperability of relevant systems.

Amendment 219
Proposal for a regulation
Article 62 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The infrastructure managers shall ensure that the digital tools and digital services fulfil the requirements of the capacity planning and allocation process set out in Section 3 of this Regulation. In order to achieve the improvements indicated in paragraph 2, point (a), of this Article, the infrastructure managers shall also use a tool for the digitalisation of temporary capacity restrictions and a digital illustration of the trains running on the European rail network.

Amendment 220
Proposal for a regulation
Article 62 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the digital tools or **of** the digital services necessary to support capacity management or traffic management processes need to be covered by technical specifications for interoperability, or where existing specifications covering or partially covering those tools, as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, need to be amended, ENIM and infrastructure managers shall contribute to the development and maintenance of such specifications in cooperation with the Europe's Rail Joint Undertaking and through the process referred to in Article 5 of Directive (EU) 2016/797.

3. Where the digital tools or the digital services necessary to support capacity management or traffic management processes need to be covered by technical specifications for interoperability, or where existing specifications covering or partially covering those tools, as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, need to be amended, ENIM and infrastructure managers shall contribute to the development and maintenance of such specifications in cooperation with **ERA** **and** the Europe's Rail Joint Undertaking, and through the process referred to in Article 5 of Directive (EU) 2016/797.

Text proposed by the Commission

Amendment

5 a. Infrastructure managers shall ensure that the digital tools and digital services referred to in paragraph 1 shall be fully operational in accordance with the timelines set out in this Regulation: The following digital European rail capacity and traffic management systems shall be implemented:

(a) A European digital system for the capacity management processes set out in Chapter II of this Regulation, consisting of:

(i) a digital display of capacity models referred to in Article 17 by 1 July 2025 (“European capacity management tool”) to be used from timetable period 2027;

(ii) a tool to submit multi-network annual capacity requests and receive answers in a single place and operation by 1 January 2026 (= “path coordination system”) to be used from timetable period 2027;

(iii) a digital display of the capacity supply plan in real time referred to in Articles 9 and 18 by 1 December 2028 (“European Capacity management tool”) to be used from timetable period 2030;

(iv) a digital display and tool for coordination of temporary capacity restrictions referred to in Article 10 by 1 December 2027 (“temporary capacity restrictions tool”) to be used from timetable period 2029;

(v) a capacity broker for requesting multi-network capacity according to the processes described in Articles 32 to 34 by 1 January 2029 (“capacity broker”) to be used from timetable period 2030 ;

(b) a European digital system as a support of the European traffic management network concept, for the traffic

management processes set out in Chapter III of this Regulation (“Train information system”), providing for

(i) a European-wide overview of multi-network train runs from origin to destination as of the date of application of the Regulation;

(ii) a regular exchange of information on estimated time of arrival by December 2027;

(iii) a reporting of incidents to or via this common system by December 2030;

(iv) a common platform for communication and cooperation of national traffic control centres by December 2030.

ERA in cooperation with ENIM and the network coordinator shall, in accordance with Article 19 of Regulation (EU) 2016/796, provide by ... [12 months from the entry into force of this Regulation], a recommendation to the Commission, setting out tools on the implementation and governance of the digital European rail capacity and traffic management system. The recommendation shall take into account the tools already in operation or under development, as well as investments committed, and the tools and timelines provided in this paragraph. Based on this recommendation, the Commission shall be empowered to adopt a delegated act in accordance with Article 71 to set out these tools on the implementation and governance of the digital European rail capacity and traffic management system and to identify the tasks of the Europe’s Rail Joint Undertaking, ERA, infrastructure managers, ENIM, ENRRB and the Network Coordinator in this process.

Amendment 222
Proposal for a regulation
Article 62 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5 b. ERA shall coordinate these tasks.

The central tools of the European digital capacity and traffic management systems shall be operated by the Network Coordinator.

ERA shall ensure compliance of digital systems developed by the sector with the technical standards for interoperability.

Amendment 223

Proposal for a regulation

Article 62 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5 c. The Commission and Member States shall support the financing of the activities set out in this Article, including from the CEF, in order to ensure a timely, cross-border harmonised and interoperable implementation of digital tools and services.

Amendment 224

Proposal for a regulation

Article 63 – paragraph 1

Text proposed by the Commission

Amendment

1. The functions and the powers laid down in Article 56 of Directive 2012/34/EU shall also be exercised with respect to the matters covered by this Regulation. In particular, the regulatory body shall monitor the activities of infrastructure managers as set out in Chapters II to V and shall verify compliance with this Regulation on its own initiative and with a view to preventing discrimination against applicants.

1. The functions and the powers laid down in Article 56 of Directive 2012/34/EU shall also be exercised with respect to the matters covered by this Regulation. In particular, the regulatory body shall monitor the activities of infrastructure managers ***and the European network coordinator***, as set out in Chapters II to V ***of this Regulation*** and shall verify compliance with this Regulation on its own initiative and with a view to preventing discrimination against applicants.

Amendment 225
Proposal for a regulation
Article 63 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The regulatory body shall participate and supervise the strategic planning of capacity provided in Section II of this Regulation. The regulatory body shall also evaluate proportionality, non-discrimination and transparency. The regulatory body may issue and share opinions with infrastructure managers, ENIM and ERP. The infrastructure managers shall take into account the proposals of regulatory bodies in elaborating the strategic planning of capacity.

Amendment 226
Proposal for a regulation
Article 63 – paragraph 2

Text proposed by the Commission

Amendment

2. A railway undertaking, ***an*** applicant, a potential applicant, a national, regional or local authority responsible for transport shall have the right to appeal to the regulatory body in accordance with article 56 of Directive 2012/34/EU if it believes it has been unfairly treated, discriminated against or in any other way aggrieved by the infrastructure manager when the latter carried out the activities set out in Chapters II, III, IV and V of this Regulation (***Management of infrastructure; Traffic and crisis management; Performance review and management; European network for coordination***).

2. A railway undertaking, ***other*** applicant, a potential applicant, a national, regional or local authority responsible for transport shall have the right to appeal to the regulatory body in accordance with article 56 of Directive 2012/34/EU if it believes it has been unfairly treated, discriminated against or in any other way aggrieved by the infrastructure manager when the latter carried out the activities set out in Chapters II, III, IV and V of this Regulation.

Amendment 227
Proposal for a regulation
Article 64 – paragraph 1 – subparagraph 1

Text proposed by the Commission

For the purpose of fulfilling their responsibilities under this Regulation, the regulatory bodies shall cooperate in the framework of the ENRRB referred to in Article 57(1) of Directive 2012/34/EU, including through joint consultations and investigations, by adopting opinions or recommendations or through other relevant activities. Regulatory bodies shall provide all the required information to the ENRRB.

Amendment

For the purpose of fulfilling their responsibilities under this Regulation, the regulatory bodies shall cooperate in the framework of the ENRRB referred to in Article 57(1) of Directive 2012/34/EU, including through joint consultations and investigations, by adopting opinions or recommendations or through other relevant activities. Regulatory bodies shall provide all the required information to the ENRRB ***and take into account the opinions and recommendations adopted by ENRRB.***

Amendment 228
Proposal for a regulation
Article 64 – paragraph 5

Text proposed by the Commission

5. Where a regulatory body adopts a decision, which departs from any relevant opinion or recommendation of the ENRRB or where it refuses to adopt a decision, it shall provide to the ENRRB an explanation laying out the differences and its reasoning for not following the opinions or recommendations of the ENRRB.

Amendment

5. Where a regulatory body adopts a decision, which departs from any relevant opinion or recommendation of the ENRRB or where it refuses to adopt a decision, it shall provide to the ENRRB an explanation laying out the differences and its reasoning for not following the opinions or recommendations of the ENRRB ***and include the relevant explanation in its decision.***

Amendment 229
Proposal for a regulation
Article 64 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8 a. ENRRB shall ensure that its structure, methods of operation and all relevant information about its work, including opinions and recommendations are made publicly available on its website. It shall include contact details of working groups.

Amendment 230
Proposal for a regulation
Article 65 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. ENRRB shall assess, before adopted, the European frameworks for capacity managements, traffic management and performance review as well as the network statement common structure and issue and share an opinion with national regulatory bodies that may take action in accordance with Article 56 of Directive 2012/34/EU. ENRRB may assess all ENIM decisions and issue and share opinions with ENIM, regulatory bodies, ERP and infrastructure managers.

Amendment 231
Proposal for a regulation
Article 65 – paragraph 3

Text proposed by the Commission

Amendment

3. Based on requests by applicants, infrastructure managers, and other interested parties, the ENRRB shall provide opinions or recommendations on pending or adopted decisions on complaints submitted to the rail regulatory bodies.

3. Deleted

Amendment 232
Proposal for a regulation
Article 65 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. The ENRRB shall provide recommendations to the ENIM as regards the establishment and review of the European framework for performance review referred to in Article 50, including on performance areas, performance issues to be addressed under each of the

performance areas, harmonisation of methodologies, processes, criteria and definitions for the collection and analysis of data related to performance and performance indicators;

Amendment 233
Proposal for a regulation
Article 65 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6 a. ENRRB shall assess the European frameworks for capacity managements, traffic management and performance review as well as the network statement common structure and issue an opinion. Regulatory bodies shall take utmost account of the opinion of ENRRB in checking network statements.

Amendment 234
Proposal for a regulation
Article 66 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

ENRRB shall ensure that its methods of operation and all relevant information about its work are made publicly available on a common website. It shall include contact details for complaints, contact information for dedicated working groups, and information about procedures.

Amendment 235
Proposal for a regulation
Article 66 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

ENRRB shall publish its opinions and recommendations on a dedicated website.

Amendment 236
Proposal for a regulation
Article 67 – paragraph 1

Text proposed by the Commission

1. The Board of Regulatory Bodies shall be composed of one voting member from each Member State that has a rail network in use and one member appointed by the Commission.

Amendment

1. The Board of Regulatory Bodies shall be composed of one voting member from each Member State that has a rail network in use and one member appointed by the Commission. ***ERA shall be an observer with no voting rights.***

Amendment 237
Proposal for a regulation
Article 68 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(a a) adopt opinions and recommendations on decisions taken by ENIM working in cooperation with the network coordinator within the scope of this regulation

Amendment 238
Proposal for a regulation
Article 68 – paragraph 2 – point a b (new)

Text proposed by the Commission

Amendment

(a b) following complaints from railway undertakings, operators of service facilities and other interested parties, adopt recommendations and opinions of the ENRRB in relation to the consultations referred to in Article 55 a, as well as to the decisions taken by ENIM working in cooperation with the network coordinator.

Amendment 239
Proposal for a regulation
Article 68 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(c a) draft and adopt a recommendation to the ENIM as regards the establishment and review of the European framework for performance review.

Amendment 240
Proposal for a regulation
Article 69 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The Board shall meet in regular intervals. It shall elect a Chair from among its members with a two-thirds majority of its members and shall serve a term of one year.

Amendment 241
Proposal for a regulation
Article 69 – paragraph 2

Text proposed by the Commission

Amendment

2. The Commission shall **chair** the meetings of the Board. It shall have no voting right.

2. The Commission shall **attend, support and facilitate coordination during** the meetings of the Board. It shall have no voting right.

Amendment 242
Proposal for a regulation
Article 70 – paragraph 3

Text proposed by the Commission

Amendment

3. The working groups shall be open to the participation of experts from rail regulatory bodies, the Commission, **operational stakeholders** and, where

3. The working groups shall be open, **upon invitation**, to the participation of experts from rail regulatory bodies, the Commission, **ERA**, and, where relevant,

relevant, from other public or private bodies.

from *operational stakeholders and from* other public or private bodies.

Amendment 243

Proposal for a regulation

Article 70 – paragraph 5

Text proposed by the Commission

5. The Board or the Chairs of the working groups may invite individual experts recognised as competent in the relevant field to participate in the working group meetings if necessary on a case-by-case basis.

Amendment

5. The Board or the Chairs of the working groups may invite *experts from rail regulatory bodies, the Commission, ERA, operational stakeholders and - where relevant - from other public or private bodies as well as* individual experts recognised as competent in the relevant field to participate in the working group meetings if necessary on a case-by-case basis.

Amendment 244

Proposal for a regulation

Article 71 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Article 10(8), Article 11(2), Article 21(9), Article 38(3), Article 39(9), Article 46(6), Article 48(3) *and* Article 53(5) shall be conferred on the Commission for a period of five years from [1 January 2026]. 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.

Amendment

2. The power to adopt delegated acts referred to in Article 6(4a), Article 8(7), Article 10(8), Article 11(2) *and (4a), Article 12(9a), Article 18(10a), Article 19(5), Article 20(4a), Article 21(9), Article 38(3), Article 39 (8a) and (9), Article 40(7), Article 41 (3), Article 44(3a), Article 46(6), Article 48(3) Article 52 (1), Article 53(5) and Article 62(5a), and* shall be conferred on the Commission for a period of five years from [1 January 2026]. 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.

Amendment 245
Proposal for a regulation
Article 74 – paragraph 1 – point c

Text proposed by the Commission

(c) points (20), (22), (23), (27) and (28) are deleted;

Amendment

(c) **In Article 3**, points (20), (22), (23), (27) and (28) are deleted;

Amendment 246
Proposal for a regulation
Article 74 a (new)

Text proposed by the Commission

Amendment

Article 74a

Amendments to Regulation (EU)
2016/796

1. Regulation (EU) 2016/796 is amended as follows:

a) In Article 19 (1), the following point is added::

(m) issue recommendations to the Commission, upon request, regarding the drafting and updating of implementing and delegated acts provided for in Regulation of the European Parliament and of the Council (EU) .../[Regulation on the use of railways infrastructure capacity in the single European railways area, amending Directive 2012/34/EU and repealing Regulation (EU) No 913/2010].

Amendment 247
Proposal for a regulation
Article 74 b (new)

Text proposed by the Commission

Amendment

Article 74b

Amendments to Directive (EU) 2016/797

1. Directive (EU) 2016/797 is amended as follows:

(a) In point 2 of Annex II, the following point is added:

2.9 Use of railway infrastructure capacity: the structures, bodies and procedures referred to in Regulation (EU) .../... of the European Parliament and of the Council [this Regulation]

Amendment 248
Proposal for a regulation
Article 75 – paragraph 1

Text proposed by the Commission

1. Framework agreements concluded in accordance with Article 42 of Directive 2012/34/EU shall continue to apply until their expiration date.

Amendment

1. Framework agreements concluded in accordance with Article 42 of Directive 2012/34/EU **before 1 January 2026** shall continue to apply until their expiration date.

Amendment 249
Proposal for a regulation
Article 77 – paragraph 2 – subparagraph 1 – point a

Text proposed by the Commission

(a) Articles 1, 2 and 3, Chapter II, with the exception of Article 9(1) and (2) and **Article 27(4)**, and Chapter III, with the exception of Article 48, of this Regulation shall apply only to activities and tasks carried out in relation to the working timetables entering into force after [8 December **2029**];

Amendment

(a) Articles 1, 2 and 3, Chapter II, with the exception of Article 9(1) and (2) and **Articles 26, 27, 28, 31, 39 and 50**, and Chapter III, with the exception of Article 48, shall apply only to activities and tasks carried out in relation to the working timetables entering into force after 8 December **2027**;

Amendment 250
Proposal for a regulation
Article 77 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) Article 9(1) and (2) shall apply from

Amendment

(b) Article 9(1) and (2) shall apply from

[1 January 2028];

1 January 2027;

Amendment 251

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(c a) Article 35 shall apply from 1 December 2028;

Amendment 252

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(c b) Article 40 shall apply from 1 December 2027;

Amendment 253

Proposal for a regulation

Article 77 – paragraph 2 – subparagraph 1 – point e

Text proposed by the Commission

Amendment

(e) Article 74 shall apply from [9 December 2029].

(e) Article 74 shall apply from 9 December 2027.

Amendment 254

Proposal for a regulation

Annex I – point 1 – table

Text proposed by the Commission

Deliverable	Contents
Capacity strategy (Article 16)	<ul style="list-style-type: none">– Planned development of physical infrastructure, including new construction, upgrades, renewals and closures /decommissioning;– Forecasted development of demand for rail transport services;– Strategic guidance on capacity utilisation by Member

	<p>States, including an outlook on the evolution on public service obligations;</p> <ul style="list-style-type: none"> – Capacity allocated in framework agreements and capacity required to provide transport services under public service contracts; – Infrastructure declared highly utilised or congested; – Major capacity restrictions resulting from infrastructure works.
<p>Capacity model</p> <p>(Article 17)</p>	<ul style="list-style-type: none"> – All information included in the capacity strategy, where relevant updated and further detailed – Volume of capacity available to applicants by rail transport market segment and/or by allocation process – Volume of capacity required for infrastructure works by impact on traffic (categories) – Geographical scope: at least the lines included in the core network and extended core network of the trans-European transport network – Geographical detail: breakdown in appropriate planning sections reflecting infrastructure and demand characteristics – Temporal scope: one working timetable period – Temporal detail: at least annual overview (capacity restrictions) and one or more representative day/days (capacity available for requests)
<p>Capacity supply plan</p> <p>(Article 18)</p>	<ul style="list-style-type: none"> – All information included in the capacity model, where relevant updated further detailed – Prep-planned capacity available for requests, defined in the form of capacity objects – Capacity restrictions, defined in the form of capacity objects – Alternative capacity available during capacity restrictions – Alternative capacity available in the event of network disruptions

Amendment

Deliverable	Contents
<p>Capacity strategy</p> <p>(Article 16)</p>	<ul style="list-style-type: none"> – Planned development of physical infrastructure, including new construction, upgrades, renewals and closures /decommissioning;

	<ul style="list-style-type: none"> – Forecasted development of demand for rail transport services; – Strategic guidance on capacity utilisation by Member States, including an outlook on the evolution on public service obligations; – Capacity allocated in framework agreements and capacity required to provide transport services under public service contracts; – Infrastructure declared highly utilised or congested; – Major capacity restrictions resulting from infrastructure works.
Capacity model (Article 17)	<ul style="list-style-type: none"> – All information included in the capacity strategy, where relevant updated and further detailed – Volume of capacity available to applicants by rail transport market segment and/or by allocation process, <i>including safeguarded capacity for later requests and capacity assigned by Framework Agreements</i> – Volume of capacity required for infrastructure works by impact on traffic (categories) – Geographical scope: at least the lines included in the TEN-T core and extended core network – Geographical detail: breakdown in appropriate planning sections reflecting infrastructure and demand characteristics – Temporal scope: one working timetable period – Temporal detail: at least annual overview (capacity restrictions) and one or more representative day/days (capacity available for requests)
Capacity supply plan (Article 18)	<ul style="list-style-type: none"> – All information included in the capacity model, where relevant updated further detailed – Prep-planned capacity available for requests, defined in the form of capacity objects – Capacity restrictions, defined in the form of capacity objects – Alternative capacity available during capacity restrictions – Alternative capacity available in the event of network disruptions

Amendment 255
Proposal for a regulation
Annex I – point 2 – point 1 – paragraph 3 – table

Text proposed by the Commission

Deliverable	Milestone	Deadline (at latest)
Capacity strategy (Article 16)	<i>Publication of the first elements of the capacity strategy</i>	X–60
	First consultation of stakeholders	X–58
	Publication of the draft strategy and second consultation of stakeholders	X–38
	Publication of final capacity strategy following final coordination between infrastructure managers	X–36
Capacity model (Article 17)	Start of preparation	X–36
	Consultation of applicants and operational stakeholders	X–24
	Publication of draft capacity model	X–21
	Coordination with applicants and operational stakeholders	X–19
	Publication of final capacity model following final coordination between infrastructure managers	X–18
Capacity supply plan (Article 18)	Start of preparation	X–18
	Consultation of applicants and operational stakeholders	X–14
	Publication of capacity restrictions referred to in point (1) of section (3) of this Annex	X–12
	Publication of final capacity supply plan following final coordination between infrastructure managers	X–11
	Publication of capacity restrictions referred to in point (5) of section (3) of this Annex	X–4
	Re-purposing of capacity reserved for allocation through the working timetable for other allocation processes	X–2
	Update of capacity supply plan to reflect any changes to pre-planned or allocated capacity	Until X+12 without delay
Note:		

(1) 'X-m' means 'm' months before the date of entry into force of the working timetable ('X'), in accordance with section 4.

Amendment

Deliverable	Milestone	Deadline (at latest)
Capacity strategy (Article 16)	<i>Capacity strategy elaboration phase</i>	X-60
	First consultation of stakeholders	X-58
	Publication of the draft strategy and second consultation of stakeholders	X-48
	Publication of final capacity strategy following final coordination between infrastructure managers	X-36
	<i>Publication of capacity model</i>	X-18
	<i>Publication of final capacity supply plan following IM and ERP consultation</i>	X - 11
Capacity model (Article 17)	Start of preparation	X-36
	Consultation of applicants and operational stakeholders	X-24
	<i>Coordination between infrastructure managers and operation participants and feasibility assessments for provided capacity needs that might not be fully considered in the draft capacity model</i>	X-22
	Publication of draft capacity model <i>and start of the second consultation with the applicants and operation participants</i>	X-21
	Coordination with applicants and operational stakeholders	X-19
	Publication of final capacity model following final coordination between infrastructure managers	X-18
Capacity supply plan (Article 18)	Start of preparation	X-18
	Consultation of applicants and operational stakeholders	X-14
	<i>Regulatory Body shall analyse the draft capacity supply plan and may take a decision requiring the infrastructure manager to amend the capacity supply plan</i>	X-14 to X-13
	Publication of capacity restrictions referred to in point	X-12

	(1) of section (3) of this Annex	
	Publication of final capacity supply plan following final coordination between infrastructure managers	X-11
	<i>Update of capacity supply plan for late requests</i>	<i>X-6,5</i>
	Publication of capacity restrictions referred to in point (5) of section (3) of this Annex	X-4
	Re-purposing of capacity reserved for allocation through the working timetable for other allocation processes	X-2
	Update of capacity supply plan to reflect any changes to pre-planned or allocated capacity	Until X+12 without delay
<p>Note:</p> <p>(1) ‘X-m’ means ‘m’ months before the date of entry into force of the working timetable (‘X’), in accordance with section 4.</p>		

Amendment 256

Proposal for a regulation

Annex I – point 3 – point 1

Text proposed by the Commission

1. As regards temporary restrictions of the capacity of railway lines, for reasons such as infrastructure works, including associated speed restrictions, axle load, train length, traction, or structure gauge (‘capacity restrictions’), of a duration of more than 7 consecutive days and for which more than 30 % of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport, the infrastructure managers concerned shall publish all capacity restrictions and the preliminary results of a consultation with the applicants for a first time at least 24 months and, in an updated form, for a second time at least 12 months before the change of the working timetable concerned. These infrastructure restrictions shall be included in the capacity supply plan referred to in Article 18.

Amendment

1. As regards temporary restrictions of the capacity of railway lines, for reasons such as infrastructure works, including associated speed restrictions, axle load, train length, traction, or structure gauge (‘capacity restrictions’), of a duration of more than 7 consecutive days and for which more than 30 % of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport, the infrastructure managers concerned shall publish all capacity restrictions, ***as far as they are known***, and the preliminary results of a consultation with the applicants for a first time at least 24 months and, in an updated form, for a second time at least 12 months before the change of the working timetable concerned. These infrastructure restrictions shall be included in the capacity supply plan referred to in Article 18.

Amendment 257
Proposal for a regulation
Annex I – point 3 – point 7

Text proposed by the Commission

7. Without prejudice to Article 40, the infrastructure manager may decide not to apply the periods laid down in points (1) to (5), if the capacity restriction is necessary to re-establish safe train operations, the timing of the restrictions is beyond the control of the infrastructure manager, ***the application of those periods would be cost ineffective*** or unnecessarily damaging in respect of asset life or condition, or if all concerned applicants agree. In those cases and in case of any other capacity restrictions that are not subject to consultation in accordance with other provisions of this Annex, the infrastructure manager shall consult the applicants and the main operators of service facilities concerned forthwith.

Amendment

7. Without prejudice to Article 40, the infrastructure manager may decide not to apply the periods laid down in points (1) to (5), if the capacity restriction is necessary to re-establish safe train operations, the timing of the restrictions is beyond the control of the infrastructure manager or unnecessarily damaging in respect of asset life or condition, or if all concerned applicants agree. In those cases and in case of any other capacity restrictions that are not subject to consultation in accordance with other provisions of this Annex, the infrastructure manager shall consult the applicants and the main operators of service facilities concerned forthwith.

Amendment 258
Proposal for a regulation
Annex I – point 4 – point 1 – table

<i>Text proposed by the Commission</i>	
Milestone or time period	Deadline or duration(1)
Period of validity of the working timetable ('working timetable period')	One year
Entry into force of the working timetable	Midnight on the second Saturday in December
Publication of capacity supply plan	In accordance with section 2 of this Annex
Publication of capacity restrictions resulting from infrastructure works	In accordance with sections 2 and 3 of this Annex
Deadline for applicants to submit requests for capacity rights	X-8.5
Preparation of draft working timetable Deadline for infrastructure manager(s) to	X-6.5

submit draft capacity offer to applicants	
Finalisation of coordination with applicants	X-6
Deadline for infrastructure manager(s) to submit final capacity offer to applicants	X-5.5
Publication of final working timetable Deadline for infrastructure manager to allocate capacity rights to applicants	X-5.25
Conversion of capacity specifications in train paths	To be specified in the European framework for capacity management referred to in Article 6
<p>Note:</p> <p>(1) 'X-m' means 'm' months before the date of entry into force of the working timetable ('X')</p>	
<i>Amendment</i>	
Milestone or time period	Deadline or duration(1)
Period of validity of the working timetable ('working timetable period')	One year
Entry into force of the working timetable	Midnight on the second Saturday in December
Publication of capacity supply plan	In accordance with section 2 of this Annex
Publication of capacity restrictions resulting from infrastructure works	In accordance with sections 2 and 3 of this Annex
Deadline for applicants to submit requests for capacity rights	X-8.5
Preparation of draft working timetable Deadline for infrastructure manager(s) to submit draft capacity offer to applicants	X-6.5
Finalisation of coordination with applicants, <i>ensuring that all prerequisites are met before this 2 week finalisation of 'observation phase'</i>	X-6
Deadline for infrastructure manager(s) to submit final capacity offer to applicants	X-5.5
Publication of final working timetable Deadline for infrastructure manager to allocate capacity rights to applicants	X-5.25
Conversion of capacity specifications in	To be specified in the European

train paths	framework for capacity management referred to in Article 6
Note: (1) 'X-m' means 'm' months before the date of entry into force of the working timetable ('X')	

Amendment 259

Proposal for a regulation

Annex I – point 7 – paragraph 1 – table

<i>Text proposed by the Commission</i>	
Time period	Duration
Maximum period for infrastructure managers to prepare an offer of capacity rights concerning a single network	1 day
Maximum period for infrastructure managers to prepare an offer of multi-network capacity rights	5 days
<i>Amendment</i>	
Time period	Duration
Maximum period for infrastructure managers to prepare an offer of capacity rights concerning a single network <i>if the ad hoc request is placed after the publication date of the final working timetable</i>	24 hours
Maximum period for infrastructure managers to prepare an offer of multi-network capacity rights	5 days

Amendment 260

Proposal for a regulation

Annex I – point 8 – paragraph 1 – table

<i>Text proposed by the Commission</i>	
Milestone or time period	Deadline or duration
Maximum time for the infrastructure manager to offer an alternative capacity right involving a single network	24 hours

Maximum time for infrastructure managers concerned to offer an alternative multi-network capacity right	5 days
---	--------

Amendment

Milestone or time period	Deadline or duration
Maximum time for the infrastructure manager to offer an alternative capacity right involving a single network <i>if for use within the next two working days.</i>	24 hours
Maximum time for infrastructure managers concerned to offer an alternative multi-network capacity right <i>with special parameters (e.g. extraordinary consignments, test runs)</i>	5 <i>calendar</i> days

Amendment 261

Proposal for a regulation

Annex II – point 1 – point 1 – introductory part

Text proposed by the Commission

Utilisation	Classification	Capacity utilisation	Reference period
Heterogenous traffic	Highly utilised	> 65% of theoretical capacity	More than 4 hours for more than 200 days per year
Heterogenous traffic	Congested	> 95% of theoretical capacity	More than 4 hours for more than 250 days per year
Homogeneous traffic	Highly utilised	> 80% of theoretical capacity	More than 4 hours for more than 200 days per year
Homogenous traffic	Congested	> 95% of theoretical capacity	More than 4 hours for more than 250 days per year

Amendment

Utilisation	Classification	Capacity utilisation	Reference period
Heterogenous traffic	Highly utilised	> <i>of theoretical capacity [value to be determined by ENIM]</i>	More than 4 hours for more than 200 days per year
Heterogenous traffic	Congested	> <i>of theoretical capacity [value to be determined by ENIM]</i>	More than 4 hours for more than 250 days per year
Homogeneous traffic	Highly utilised	> <i>of theoretical capacity [value to be determined by ENIM]</i>	More than 4 hours for more than 200 days per year
Homogenous	Congested	> <i>of theoretical capacity [value to be</i>	More than 4 hours for more than

traffic		<i>determined by ENIM]</i>	250 days per year
---------	--	----------------------------	-------------------

Amendment 262

Proposal for a regulation

Annex IV – paragraph 1 – point 2 – point a

Text proposed by the Commission

- (a) the procedures according to which applicants are consulted on strategic capacity planning;

Amendment

- (a) the procedures according to which applicants are consulted, ***as referred to in Article 55 a***, on strategic capacity planning;

Amendment 263

Proposal for a regulation

Annex VII – table 1

<i>Text proposed by the Commission</i>	
Performance areas subject to performance review	Performance areas subject to performance review
referred to in Article 50	referred to in Article 50
Performance area	Relevant issues (indicative)
Infrastructure and equipment	<ul style="list-style-type: none"> – Capacity and capabilities of the physical infrastructure and its equipment, including deployment of TEN-T standards – Reductions in infrastructure capacity or capability due to deferred infrastructure renewal, maintenance or repair
Infrastructure capacity	<ul style="list-style-type: none"> – Capacity offer in terms of quantity and quality – Capacity utilisation, spare capacity to accommodate traffic growth – Consistency between available capacity (planned or unplanned) and market needs – Stability of the capacity offer, in particular in connection with infrastructure works – Congested infrastructure – Planned dwelling times of trains at

	border stations
Traffic management	<ul style="list-style-type: none"> – Punctuality / delays of different types of rail services, at origin, intermediate stops and destination and at operationally important locations – Train cancellations – Actual dwelling times of trains at border stations
Disruption management and crisis management	<ul style="list-style-type: none"> – Share of traffic that could be re-routed or re-scheduled during the disruption or crisis – Impact of disruptions on rail traffic in terms of delays and cancellations – Impact of disruptions on operators of rail services and their customers – Specific issues encountered (qualitative)
Deployment and performance of digital services, tools and interfaces	<ul style="list-style-type: none"> – Support of the processes related to capacity management, traffic management and disruption management – Completeness and quality of the information and data provided – Alignment with European architecture developed in ERJU and with the relevant technical specifications in accordance with Directive (EU) 2016/797
Compliance with regulation; regulatory oversight	<ul style="list-style-type: none"> – Process indicators monitoring compliance with rules and procedures – Complaints lodged with regulatory bodies and ENRRB
<i>Amendment</i>	
Performance areas subject to performance review	Performance areas subject to performance review
referred to in Article 50	referred to in Article 50
Performance area	Relevant issues (indicative)

Infrastructure and equipment	<ul style="list-style-type: none"> – Capacity and capabilities of the physical infrastructure and its equipment, including deployment of TEN-T standards – Reductions in infrastructure capacity or capability due to deferred infrastructure renewal, maintenance or repair
Infrastructure capacity	<ul style="list-style-type: none"> – Capacity offer in terms of quantity and quality, <i>including consistency across network borders</i> – Capacity utilisation, spare capacity to accommodate traffic growth – Consistency between available capacity (planned or unplanned) and market needs – Stability of the capacity offer, in particular in connection with infrastructure works – Congested infrastructure – Planned dwelling times of trains at border stations
Traffic management	<ul style="list-style-type: none"> – Punctuality / delays of different types of rail services, at origin, intermediate stops and destination and at operationally important locations – Train cancellations – Actual dwelling times of trains at border stations
Disruption management and crisis management	<ul style="list-style-type: none"> – Share of traffic that could be re-routed or re-scheduled during the disruption or crisis – Impact of disruptions on rail traffic in terms of delays and cancellations – Impact of disruptions on operators of rail services and their customers – Specific issues encountered (qualitative)
Deployment and performance of digital	<ul style="list-style-type: none"> – Support of the processes related to capacity management, traffic

services, tools and interfaces	<p>management and disruption management</p> <ul style="list-style-type: none"> – Completeness and quality of the information and data provided <i>as well as ease of access for operational stakeholders</i> – Alignment with European architecture developed in ERJU and with the relevant technical specifications in accordance with Directive (EU) 2016/797
Compliance with regulation; regulatory oversight	<ul style="list-style-type: none"> – Process indicators monitoring compliance with rules and procedures – Complaints lodged with regulatory bodies and ENRRB
