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From:	General Secretariat of the Council
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Subject:	The Single European Railway Area [Exploratory opinion requested by the Portuguese Presidency] – Opinion of the European Economic and Social Committee

Delegations will find attached a copy of the above-mentioned opinion.

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TEN/727
The Single European Railway Area

OPINION

European Economic and Social Committee

The Single European Railway Area
[Exploratory opinion requested by the Portuguese Presidency]

Rapporteur: **Stefan BACK**

Referral	Portuguese Presidency of the Council of the EU, 26/10/2020
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	09/03/2021
Adopted at plenary	24/03/2021
Plenary session No	559
Outcome of vote (for/against/abstentions)	148/68/10

1. Conclusions and recommendations

Regarding the questions raised by the Portuguese Presidency

- 1.1 The EESC considers that while a lot has happened in respect of opening up markets and technical harmonisation in the course of thirty years of liberalisation, a lot remains to be done at political, regulatory and cultural level. Measures must include more attention to development, adaptation and efficient implementation of social legislation. They must seek to achieve the increased market share foreseen in the Commission Sustainable and Smart mobility Strategy and improve environmental and social sustainability.
- 1.2 Measures are needed to facilitate cross-border operations by reducing the need for border checks and eliminating administrative problems and delays at border crossings.
- 1.3 Traffic planning priorities, capacity planning and information need to be improved to enable both greater flexibility and optimised capacity planning both with regard to rail infrastructure but also regarding, for instance, terminals to optimise multimodal flows.
- 1.4 Investments are needed in infrastructure but also in digitalisation and updating of rolling stock, for instance digitalisation through deployment of ERTMS and automated couplings, including investment in just transition and skills development, to improve smooth traffic flows and optimise resource utilisation and ensure employment.
- 1.5 To improve rail freight traffic, the EESC recommends additional measures, e.g. cooperation among companies and transport modes to better achieve environmental and social sustainability and efficiency, relaunch of a European single wagon load system, link of strategic infrastructure (e.g. ports) to rail solutions, investments in industrial sidings, involvement of large logistics companies in a modal reorientation of their flows, ensuring environmentally and socially exemplary performance of all transport modes.
- 1.6 The EESC recommends with regard to public debt an exception from the Maastricht criteria for public investments in transport infrastructure also beyond the COVID-19 crisis. Efforts to encourage investments in the rail sector should be enhanced, to promote socially and environmentally sustainable transport.
- 1.7 Infrastructure development including timely implementation of the TEN-T Core Network Corridors and the freight network corridors are key and warrant high priority regarding financing and planning. In view of the post-2030 development of the EU rail network it is of particular importance to proceed towards the development of a high-speed network connecting all EU capitals and major cities.
- 1.8 The EESC underlines that skilled and motivated workers and good working conditions are of vital importance for the successful evolution of rail transport. It is therefore important that adequate social legislation is in place, including with respect to posting of railway staff. The EESC underlines the importance in this respect of a well-functioning social dialogue.

- 1.9 The experiences from the COVID-19 crisis must be used to develop a more resilient and effective rail system. Resilience planning needs to be adopted in close consultation with the social partners.
- 1.10 The status of the infrastructure manager initially provided for has as such undoubtedly contributed to ensuring that infrastructure capacity has been allotted in an independent, fair and non-discriminatory manner and has improved the confidence of operators in fair treatment. However, subsequent changes to the regulatory framework in Directive 2012/34/EC provide for a wider choice as to the organisational model, focusing on the independence of the infrastructure manager in the so-called essential functions (slot allocation, charging and collection of charges) and the transparency granted by separated accounts. The current provisions are perfectly adequate to ensure the independence and transparency required for the good functioning of the internal market.
- 1.11 The EESC underlines that integrated railway systems can guarantee fair allocation as well as non-integrated systems. The EESC points to the fact that many of the big and the successful railway countries in Europe decided in favour of integrated railway companies to ensure synergies, better coordination, flexibility and an internal labour market for safeguarding employment.
- 1.12 The coordination mechanism between infrastructure managers and operators as well as the European Network of Infrastructure Managers are essential elements to help towards the achievement of optimised efficiency.

Further conclusions

- 1.13 Infrastructure managers need to focus more on bottlenecks, urban areas, cross-border links and cross-border traffic flows and cooperation.
- 1.14 The possibility of coordinated traffic and resource management at corridor or EU level is interesting and needs to be explored as an element of, for instance, rail freight corridor implementation, or as part of the TEN-T core network corridors.
- 1.15 The EESC questions whether rail is in need of a change of culture and an approach that is much more centred on placing the customers' needs in focus, both with respect to passenger and to freight transport. The European Year of Rail 2021 should be used as an opportunity to promote this behavioural change and develop smoother cooperation between operators and customers and to optimise use of the possibilities offered by digitalisation.
- 1.16 EESC notes that COVID-19 has delayed or blocked projects. It is now important that the time lost is recovered.
- 1.17 It seems clear that the current needs for policy measures and improvement of the rail system should be taken into account in order to realise the modal share goals and to allow it to play its

full part in a sustainable European multimodal transport system. State aid and state intervention remain crucial to ensure essential services also beyond the COVID-19 crisis.

- 1.18 The impact of COVID-19 is detrimental to all kinds of rail passenger traffic, and especially to international routes. Taking into account the specifics of the railway sector, its revenue loss in 2020, which amounted to 26 billion euro, the losses of 2021 as well as the expected slow pace of the recovery, adequate and flexible financial support to railway undertakings and infrastructure managers is necessary and must be deployed in an effective manner, to support the development of the railway transport market and the competitiveness of the sector vis-à-vis other modes of transport.
- 1.19 Public service contracts are essential to ensure accessible, affordable and inclusive passenger services for all. The EESC sees the direct award of public service contracts as one of the most effective and efficient measures to promote railway passenger transport.
- 1.20 The European Year of the Rail 2021 provides an excellent opportunity to take stock of developments up till now and set objectives for the future. Therefore, the EESC calls for an unbiased analysis of the EU railway policy and its achievements in accordance with the remit outlined in point 7.2 and in line with the objectives of transport policy set out in TFEU Articles 90 and 91 with due regard to the right to adequate public service in case of market failure as provided in Regulation (EC) 1370/2007 and Article 14, Protocol 26 TFEU and Article 36 of the EU Charter of Fundamental Rights.

2. **General comments/The questions of the Portuguese Presidency**

- 2.1 The Presidency has requested that the opinion should focus on the three following questions:
- 2.2 What lessons could be learned from three decades of attempts to liberalise the rail sector in EU countries (and the United Kingdom)?
- 2.3 Has the unbundling of the railway system improved or harmed its performance as a whole?
- 2.4 Should the unbundling of the infrastructure managers from rail operators follow a "one model fits all" or should a plurality of models be promoted?

3. **The Single European Railway Area**

- 3.1 The Single European Railway Area was outlined in the 1996 White Paper "A Strategy for revitalising the Community's railways". It has been implemented through four legislative packages decided in 2001, 2004, 2007 and 2016. In 2001 the modal share of rail freight transport (land transport modes) was 17.5%, in 2006 17.0% and in 2018 17.9%. The modal share of rail passenger transport developed as follows: 6.6% in 2007, 6.6% in 2010 and 6.9% in 2018 (all passenger transport modes). Only land transport: 6.9% in 2007, 7.0% in 2011 and

7.9% in 2018¹. Despite the same legislation framework, developments were different in the Member States.

- 3.2 Summing up, the packages have opened up national and international passenger and freight transport markets, technical harmonisation including requirements with respect to infrastructure and rolling stock, including on the common European Rail Traffic Management System (ERTMS), to be used primarily on the TEN-T network.
- 3.3 The framework ensures the independence of infrastructure managers regarding essential functions such as the allocation of slots and provisions on separate accounts for the infrastructure manager.
- 3.4 The legislative framework also includes Directive 2007/59/EC on the certification of competences and medical aptitudes of train drivers including language qualifications in international transport and Directive 2005/47/EC on working conditions of mobile personnel in cross-border interoperable operations are both based on agreements of the European social partners in accordance with Article 155 TFEU.
- 3.5 The framework also provides for a national coordination mechanism between infrastructure managers and operators on infrastructure maintenance and capacity targets, intermodality and interoperability, access and use of infrastructure, as well as intramodality and service quality. A European Network of Infrastructure Managers ensures cooperation and exchange of views.
- 3.6 Rules on passenger transport include provisions on public service contracts and public procurement as well as a possibility to announce general rules on pricing and service levels. Public passenger transport is legislated by the PSO Regulation 1370/2007 (amended by Regulation (EU) 2016/2338) which requires the awarding of public service contracts by competent authorities according to the rules that are laid down in the regulation. They include the competences of competent authorities and Member States to impose social criteria, social standards and the transfer of staff in the case of change of operator.

4. **Current state of implementation – residual problems after 30 years**

- 4.1 Almost three decades of efforts to open the EU international and national freight and passenger rail markets, and harmonising various technical and safety rules thus creating a Single European Railway Area, has not yielded the sought overall results.
- 4.2 It should also be reminded that regarding international rail passenger routes and developing the capacity of this market segment, the EU Strategy on Sustainable and Smart Mobility aims to achieve by 2050 a fully operational, multimodal Trans-European Transport Network (TEN-T) for sustainable and smart transport with high-speed connectivity. This kind of connectivity

¹ From various EU Statistical Pocketbooks.

should be able to connect EU major cities with rail-based sustainable services, able to replace, gradually and at least partially, intra continental air connections.

- 4.3 Despite the full market opening, measures to ensure free and non-discriminatory access to infrastructure, harmonised technical rules and administrative simplification, rail still shows considerable shortcomings with respect to its capacity to increase its modal share in both passenger and freight transport. A number of issues are accounted for in the 2020 Staff Working Document accompanying the Commission Communication on a Sustainable and Smart Mobility Strategy (the "Working Document"), with a number of suggestions². Similar views appear, with respect to freight, in the 2016 Special Report of the European Court of Auditors "Rail freight transport in the EU: still not on the right track".
- 4.4 The EESC is of the opinion that an analysis limited to the implementation of the EU legal framework and a measuring of the degree of market opening is not sufficient for a full analysis and understanding of the shortcomings of the SERA. The EESC therefore requests a broad and comprehensive analysis of success factors and problems, with an assessment of the current framework, including its impact on working condition bearing in mind the obligation under the TFEU Articles 90 and 91 to establish an internal market with harmonised rules for international transport and defining conditions for cabotage as well as Article 14 TFEU on Services of General Economic Interest with due regard to the principles of the single market and competition law as provided for in rail transport by Regulation (EC) 1370/2007 bearing in mind also the role of the Member States in this regard as addressed in Protocol 26 TFEU and Article 36 of the EU Charter of Fundamental Rights.
- 4.5 Market opening has achieved uneven success. Still, there are a number of success stories. For instance, Austria, Germany and Sweden have achieved improved results in modal shares and volumes of goods transported by rail, in spite of the global decline on an EU-wide basis³.
- 4.6 The Austrian state-owned railway company ÖBB has successfully developed a network of international night passenger train connections, while its domestic market share in 2018 declined from 88.4 to 86.5%. Of the total 2019 turnover of EUR 2.2 billion relating to passenger transport, around EUR 1.4 billion seem to relate to PSO⁴.
- 4.7 PSOs are essential to ensure accessible, affordable and inclusive passenger services for citizens. Market access is open for commercial passenger services, often long distance services. However, long distance traffic and regional traffic cannot be separated. Every long distance train fulfils regional tasks for the passengers, especially when stopping in suburban areas. Regional lines ensure the necessary number of passengers and feed the main lines. They also relieve the infrastructure of the "grandes lignes" and ensure the distribution in the area.

² [SWD\(2020\) 331 final](#).

³ 2016 Special Report of European Auditors, "Rail freight transport in the EU still not on the right track", points 23-27.

⁴ ÖBB Holding Geschäftsbericht 2019, pp. 61 and 65-66.

Further initiatives are being taken by Member States to create key connections with new train services, including night trains, with incumbent railway operators in the lead of these developments. Such plans have in fact already been announced by, for instance, Germany (TEE 2.0), the Netherlands and Sweden. The EESC is of the opinion that these initiatives demonstrate the complexity of the railway system and that free market access – in place since 2010 for international passenger transport – is not the right instrument to stimulate the development of (international) long distance passenger transport. Political will, political decisions on prioritising environmentally friendly and inclusive solutions accompanied by the necessary investment and a good governance are necessary.

- 4.8 The EESC sees the direct award of public service contracts as one of the most effective and efficient measures to promote railway passenger transport. It is the backbone of the railway systems in e.g. Austria and Switzerland, the champions in terms of market share. Furthermore, the EESC notes that there is no correlation between the degree of market opening and the satisfaction of customers, or with ticket prices.
- 4.9 But, according to the abovementioned Commission Working Document, a number of problems remain with respect to opening up market access and the creation of attractive rail links. Essential elements mentioned are:
- 4.9.1 Availability of adequate information to enable operators to submit adequate offers in tendering procedures, in spite of amendments made in the 2016 fourth railway package to ensure availability of adequate information for tenderers.
- 4.9.2 Access to rolling stock remains a major problem for new entrants. The availability as such of rolling stock with certification valid all over EU remains comparatively scarce regarding rolling stock both for passenger and goods transport.
- 4.9.3 Regarding availability of rolling stock for the public service passenger transport obligation, provisions in Regulation 1370/2007 on public passenger transport services by rail and by road give the competent authorities an option to take measures to facilitate such access if considered necessary.
- 4.9.4 Through or combined ticketing for rail remains problematic, in particular regarding up-to-date information on fares, reservations and traffic.
- 4.10 In spite of the provisions in the fourth rail package enabling operators to receive a single safety certificate from the European Rail Agency for operations all over the EU, a number of rules are not harmonised, which means added complexity and cost of cross-border operations and in particular causing delays at border crossings. Harmonising these rules may therefore be a major task for the future and a prerequisite for future common digital and automation solutions.
- 4.11 The EESC underlines that the technical harmonisation and the modernisation of the infrastructure are a key factor for achieving a well-functioning single European railway area.

Investment in the modernisation of infrastructure and rolling stock is very expensive. In fact, innovations in rail like high-speed rail were developed by state-owned operators with public support. Dedicated state aid rules exist regarding research and innovation.

- 4.12 The EESC takes note that the Commission is working with the rail sector and Member States, apparently to facilitate border crossing along the Rail Freight Corridors. The EESC considers that it is important that the Commission makes a broad inventory of existing obstacles including various attitude problems, and suggests solutions. In this context, the EESC calls for the involvement of social partners in the Commission's preparatory work.
- 4.13 A number of specific issues appear regarding rail freight. They have raised the following observations and suggestions in the Working Document.
- 4.13.1 The nature of the freight market has changed. A higher proportion of goods that requires both flexibility and a higher degree of reliability in complex and high-value supply chains often puts rail at a competitive disadvantage due to its lack of punctuality, reliability, predictability and flexibility. For instance, in the first quarter of 2018 over 50% of the trains in the Alpine freight corridor were delayed over 3 hours.
- 4.13.2 Traffic information is scarce regarding, for instance, location of trains and expected time of arrival. On top of that, capacity and traffic management are generally not coordinated between rail infrastructure and facilities such as terminals. This hinders optimisations of resource management.
- 4.13.3 Lack of modern automated coupling systems in the EU, widely in use in the rest of the world, hinders the performance of single wagons.
- 4.13.4 Freight is given low priority in capacity planning, cross-border and nationally.
- 4.13.5 Long-term capacity and timetable planning hinder market-driven business models and make it impossible for rail to respond to short-time requests from customers. Prevalence granted to domestic traffic and lack of cross-border planning coordination cause further problems for cross-border freight.
- 4.13.6 Low profitability reduces investments and infrastructure investments are not adequately coordinated across borders, or even along key corridors.
- 4.13.7 Hopefully, at least part of the coordination and planning problems regarding cross-border freight might be addressed in the course on the ongoing evaluation of the Regulation establishing the European Rail Freight Corridors⁵.

⁵ [OJ L 276, 20.10.2010, p. 22.](#)

4.14 In general, it appears that there is a need to redesign the governance process for railway capacity to enable operators to provide service according to the needs of their clients, with adequate reliability, punctuality and flexibility. This requires inter alia a comprehensive view of capacity management, comprising both passenger and freight, which would facilitate optimised capacity utilisation.

4.15 With respect to rail freight, similar observations to those made by the Commission in the Working Paper are made by the Court of Auditors in the Special Report on rail freight already mentioned.

The Special Report makes a number of recommendations with respect to the improvement of the functioning of the rail freight market, including better supervision to combat anti-competitive behaviour by incumbents and infrastructure managers, improved traffic management in rail freight corridors, performance monitoring and better targeting of infrastructure needs.

4.16 The Special Report of the Court of Auditors also raises the issue of train drivers, including with respect to the language regime according to Directive 2007/59 on the certification of train drivers, suggesting that the language requirements set out in Annex VI point 8 should be replaced by requirements of knowledge of a single language to be used for international rail transport purposes.

4.17 The Special Report concludes that the strategic and regulatory issues identified are such that, if not addressed, extra funding will not resolve the problems.

4.18 Attention should also be drawn to the Ministerial Declaration on Rail Freight Corridors of 21 September 2020, highlighting the importance of digitalisation and the timely implementation of the TEN-T Core Network Corridors and the deployment of ERTMS.

4.19 There seems to be general agreement about the importance of a skilled railway staff with good working conditions. This requires action to prevent social dumping in the railway sector that is developing with the ongoing market opening as in the other transport sectors in the EU. Existing regulations – such as the Directive on the posting of workers – do not always adequately address the situation of railway workers because they do not take into account the specific requirements of the highly mobile workers in e.g. railways. It also makes monitoring challenging. The EESC therefore takes the view that, as is the case with road transport, dedicated rules addressing rail transport workers may be needed.

4.20 The EESC in this context also takes note of shortcomings regarding social provisions and legislation in the railway sector and their implementation and enforcement as reported by the rail social partners such as the implementation of the social clauses of the PSO Regulation and on the implementation, monitoring and enforcement of Directive 2005/47/EC on working conditions of mobile personnel in cross-border operations.

- 4.21 The EESC fully supports the common understanding about the importance of a skilled rail staff with good working conditions and takes note of the 2004 agreement on driving and resting times of mobile workers engaged in interoperable cross-border services, concluded between the Social Partners in January 2004 in the framework of the Social Dialogue and implemented through Directive 2005/47/EC.
- 4.22 The EESC takes note that the social partners have agreed to continue working within the social dialogue to improve monitoring of the implementation of the agreement. Through a common declaration they have undertaken to promote cross-border operations, avoid competition based solely on differences in working conditions, and maintain a level playing field among companies carrying out cross-border operations⁶.

With regard to Directive 2005/47/EC the social partners highlighted that "one of the project findings is that a proper monitoring and enforcement of the Agreement at Member State level is hindered by a lack of clarity about the national competent authorities. Even in situations where an authority is clearly defined – usually the national labour inspectorate – it seems to lack the necessary resources, capacity and/or awareness about the Agreement and the Directive implementing it to perform its duties in an effective way". The EESC assumes that the EU has to act.

- 4.23 The EESC takes note of a declaration by the social partners with regard to the PSO Regulation (EC) 1370/2007 that "the consequences of competition should not affect the working conditions of staff providing services by requiring on national, regional or local level binding social standards and/or the compulsory transfer of staff in case of change of operator"⁷. This is not sufficiently implemented and ensured in practice and needs EU action. The EESC asks the Commission to closely monitor the implementation of these provisions and take action as required.
- 4.24 There seems to be general agreement among operators that the sector now needs time to digest and adapt to the fourth railway package.

5. COVID 19 pandemic crisis – a test of resilience

- 5.1 The COVID-19 crisis has meant a trial and a challenge for rail transport as for all other transport sectors as well as for all transport workers. The reliability, safety and central role of the railways for the transport of people and goods is a positive finding from the COVID-19 pandemic, also due to the efforts made by railway staff under very difficult circumstances. State aid has helped many rail companies through a difficult period with dwindling volumes.

⁶ Assessment of the implementation and application of the Agreement on certain aspects of working conditions of mobile workers engaged in interoperable cross-border services in the railway sector; Project "Rail mobile workers" – Joint conclusions from the European Rail Social Partners CER and ETF.

⁷ <https://www.etf-europe.org/resource/joint-cer-etf-opinion-protection-of-staff-september-2013>

- 5.2 According to data collected by the Community of European Railway and Infrastructure managers, the impact of COVID-19 is detrimental to all kinds of rail passenger traffic, and especially to international routes. Revenue losses amounted to 26 billion euro in 2020 and continue in the first months of 2021. As well it is the expected that recovery will proceed at slow pace.
- 5.3 The COVID-19 crisis has however also awakened understanding of the need to develop resilience measures and improve coherence and coordination on the network and give higher priority to the development of cross-border infrastructure.⁸ However, the pandemic has also shown that the cities play the most important role in solving traffic problems; they should not be left alone, the EU must pay the utmost attention to cities.
- 5.4 During the pandemic state-owned operators were obliged to continue passenger and freight services while ensuring safe operations. State aid and state intervention have often ensured that the rail system did not collapse, a necessity to ensure essential services.

6. The unbundling issues raised by the Presidency

- 6.1 The two unbundling questions raised by the Presidency appear to be well answered by the provisions in Chapter II, Sections I and II of Directive 2012/34/EU, as amended, which aim to ensure the management independence of railway undertakings and infrastructure managers (Section I) and the separation of infrastructure management and transport operations and different types of transport operation (Section II).
- 6.2 The provisions in question provide for a wide choice of options regarding organisational form, as long as the independence of the entity ensuring infrastructure management is ensured with respect to allocation of train paths and charging. The same appears to be the case with respect to the obligation to keep separate accounts between infrastructure management and operational activities and between passenger and freight activities, and transparency on public funds that are paid for public service remits.
- 6.3 The guarantee with respect to neutrality regarding train path allocation and charging as well as the transparency provided by the provisions on accounting must be seen as beneficial since they ensure a level playing field and transparency.
- 6.4 It may be noted that large railway countries like Germany, Poland, Italy and Austria have maintained an integrated railway company while the independence of the infrastructure manager is ensured with respect to the essential functions of slot allocation, charging and collection of charges. France for example reintegrated infrastructure management and operations. They consider it beneficial for the railway system to exploit synergies, guarantee closer cooperation, higher flexibility etc. It should be taken into account as well the benefit for railway personnel in

⁸ See for instance Bundesministerium für Verkehr und digitale Infrastruktur, „Folgerungen für die zukünftige Verkehrspolitik nach den Erfahrungen und dem Umgang mit der COVID-19 Pandemie“; Wissenschaftlicher Beirat beim Bundesminister für Verkehr und digitale Infrastruktur, Nr 2/Jahr 2020.

having a big internal labour market and in particular for those safety relevant professions with medical and psychological requirements.

6.5 However, the freedom to choose organisational form must be seen as beneficial and therefore no unbundling should be imposed on Member States.

7. **Concluding remarks**

7.1 It follows from the above that the European Railway Area is by no means perfect. A deeper analysis of the success factors as well as on the impact on working conditions is necessary. Available analyses have assessed problems regarding implementation of existing legislation including market access, interoperability and technical harmonisation including incomplete harmonisation of operational and technical rules. But they have also defined problems of cost, lacking punctuality, lack of rolling stock able to move within the entire EU and general problems in adapting to an open market context. There appears to have been no analysis of possible effects of market opening on working conditions. Many things could and should be improved for the system to work better, become more competitive and improve its market share over the entire EU, becoming a full player in an efficient environmentally and socially sustainable multimodal transport and mobility system that serves users and the environment.

7.2 The EESC is of the opinion that it is time for a general stocktaking of the EU railway system. The EESC therefore requests a broad and comprehensive analysis of success factors and problems, with an assessment of the current framework, including its impact on working conditions. The EESC asks for an unbiased assessment bearing in mind the obligation under the TFEU Articles 90 and 91 to establish an internal market with harmonised rules for international transport and define conditions for cabotage with due regard to the provisions regarding Service of General Economic Interest as provided in Article 14 TFEU taken together with Protocol 26 TFEU and Article 36 of the EU Charter of Fundamental Rights. The analysis should consider environmental aspects and the objectives set out in the European Green Deal, the role of rail as a Service of General Interest and for the social and economic cohesion, the competitiveness of rail and its functioning in a multimodal crossborder transport system, based on cooperation, resource efficiency, service levels and customer/consumer satisfaction, all with particular attention to effects on the working conditions of employees. The European Year of the Rail 2021 provides an excellent opportunity to take stock of developments up till now and set objectives for the future.

Brussels, 24 March 2021

Christa SCHWENG

The president of the European Economic and Social Committee

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N.B.: Appendix overleaf.

APPENDIX
to the
OPINION
of the European Economic and Social Committee

The following amendments were rejected by the plenary session but received at least one quarter of the votes cast:

Point 1.17

Amend as follows:

It seems clear that the current needs for policy measures and improvement of the rail system should be taken into account in order to realise the modal share goals and to allow it to play its full part in a competitive sustainable European multimodal transport system. ~~State aid and state intervention~~ The sector will need State aid also during its recovery for the COVID-19 crisis and State aid for financing of public service obligations will remain crucial to ensure essential services also beyond the COVID-19 crisis.

Outcome of the vote on the amendment:

Votes in favour:	94
Votes against:	119
Abstentions:	7

Point 1.18

Amend as follows:

Public service contracts are essential to ensure accessible, affordable and inclusive passenger services for all. ~~The EESC sees the direct award of public service contracts as one of the most effective and efficient measures to promote railway passenger transport.~~ The EESC takes note of the current predominance of direct awards and the development of the regulatory framework toward competitive tendering. The EESC expects that the Commission will provide an analysis of the outcome of this change of focus with respect to affordability and service levels as foreseen in Regulation (EC) 1370/2007, Article 11, as amended.

Outcome of the vote on the amendment:

Votes in favour:	97
Votes against:	114
Abstentions:	12

Point 4.6

Amend as follows:

There is a general tendency toward using PSO obligations, with exclusive traffic rights, on deficitary lines, usually regional lines, whereas market access is open on long distance lines. The EESC underscores the important role of PSO in providing affordable accessibility and ensuring the overall coherence of the rail system for passenger transport to ensure accessibility. PSOs are essential to ensure accessible, affordable and inclusive passenger services for citizens. Market access is open for commercial passenger services, often long distance services. However, long distance traffic and regional traffic cannot be separated. Every long distance train fulfils regional tasks for the passengers, especially when stopping in suburban areas. Regional lines ensure the necessary number of passengers and feed the main lines. They also relieve the infrastructure of the "grandes lignes" and ensure the distribution in the area.

Further initiatives are being taken by Member States to create key connections with new train services, including night trains, with incumbent railway operators in the lead of these developments. Such plans have in fact already been announced by, for instance, Germany (TEE 2.0), the Netherlands and Sweden. Competing of operators on the Italian high-speed network has resulted in improved service quality cheaper tickets and higher service frequency, resulting in a discernible modal shift from air to rail. Similar initiatives are planned in Spain. The EESC is of the opinion that these initiatives demonstrate both the possibilities of the current framework to create attractive and environmentally friendly transport alternatives and the need for measures to facilitate the establishment of cross-border links. The EESC is of the opinion that these initiatives demonstrate the complexity of the railway system and that free market access—in place since 2010 for international passenger transport—is not the right instrument to stimulate the development of (international) long distance passenger transport. Political will, political decisions on prioritising environmentally friendly and inclusive solutions accompanied by the necessary investment and a good governance are necessary.

Outcome of the vote on the amendment:

Votes in favour:	104
Votes against:	112
Abstentions:	15

Point 4.7

Amend as follows:

The EESC takes note of the current predominance of direct awards of public service contracts and the development of the regulatory framework toward competitive tendering. The EESC expects that the Commission will provide an unbiased analysis of the outcome of this change of focus with respect to affordability and service levels as foreseen in Regulation (EC) 1370/2007, Article 11, as amended and that the analysis will also provide recommendations on an award system that provides the best cost/benefit results for the users. ~~*The EESC sees the direct award of public service contracts as one of the most effective and efficient measures to promote railway passenger transport. It is the backbone of the railway systems in e.g. Austria and Switzerland, the champions in terms of market share. Furthermore, the EESC notes that there is no correlation between the degree of market opening and the satisfaction of customers, or with ticket prices.*~~

Outcome of the vote on the amendment:

Votes in favour:	97
Votes against:	114
Abstentions:	12

Point 5.3

Amend as follows:

During the pandemic state-owned operators were ~~able~~ obliged to continue safe passenger and freight services while ~~ensuring safe operations~~ at the same time facing substantial losses due to dwindling freight and passenger volumes. State aid and action by the European Commission and Member States to support rail financially and in particular by facilitating continued essential services including cross border have enabled the continued functioning of necessary passenger transport and supply chains ~~*state intervention have often ensured that the rail system did not collapse, a necessity to ensure essential services.*~~

Outcome of the vote on the amendment:

Votes in favour:	94
Votes against:	119
Abstentions:	7

Point 6.5

Amend as follows:

~~However, The EESC therefore considers that the freedom to choose organisational form is must be seen as beneficial and therefore no unbundling should be imposed on Member States. The EESC also considers that the open dialogue between infrastructure managers and operators which was introduced with the fourth railway package brings added value as it enables exchange of relevant information to improve the functioning of rail and intermodality.~~

Outcome of the vote on the amendment:

Votes in favour:	95
Votes against:	118
Abstentions:	12