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Activities of the European Commission in rail transport

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Submitted by the European Commission

Response to the Covid-19 outbreak in the rail sector

The European Commission has been coordinating EU-level efforts and advocating international coordination in transport-related measures to respond to Covid-19 crisis. The main goal was to ensure the necessary safety conditions for transport (for both passengers and transport workers) through transparent, proportionate, non-discriminatory and coordinated measures. The key objective from the outset was to act quickly in order to ensure effectiveness of national measures, while securing the free movement of goods in the EU, notably the essential supply to cope with the pandemic.

On 23 March 2020, the Commission presented practical guidance to ensure continuous flow of goods across the EU, in order to keep freight moving during the pandemic: to ensure that EU-wide supply chains continue to operate, Member States were requested to designate, without delay, all the relevant internal border-crossing points on the trans-European transport network as 'green lane' border crossings – for land (road and rail), sea and air transport. The green lane border crossings should be open to all freight vehicles, whatever goods they are carrying and the crossing, including any checks and health screening, should not take more than 15 minutes.

https://ec.europa.eu/transport/sites/transport/files/legislation/2020-03-23-communication-green-lanes_en.pdf

On 25 May 2020, following a Commission's proposal, the EU adopted a regulation laying down specific and temporary measures concerning the renewal or extension of certain certificates, licences and authorisations and the postponement of certain periodic checks and periodic training in certain areas of transport legislation. In the railway sector, this concerned complementary certificates for train drivers under Directive 2007/59, certificates for other

staff under point 4.7.2.2.1 of Annex I the OPE TSI (2012/757/EU and Regulation 2019/773), and safety certificates/authorisations for Railway Undertakings and Infrastructure Managers under the railway safety directives 2004/49/EC and 2016/798/EU). The objective was to provide flexibility to extend the validity of certificates and licenses in order to ensure that staff and rolling stock will remain available, even if relevant licenses and certificates temporarily could not be renewed in the current situation.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0698>

Also, on 25 May 2020, based on a Commission's proposal, the EU adopted amendments to the fourth railway package technical pillar as regards the extension of its transposition period. The transposition deadline for the rail safety and interoperability directives was extended from the current date of 16 June 2020 to 31 October 2020. This gave the rail sector and the authorities more legal certainty and flexibility for addressing the extraordinary circumstances caused by the coronavirus outbreak.

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32020L0700#nr2-L_2020165EN.01002701-E0002

The European Union Agency for Railways (ERA) also participated in the effort to mitigate the impact of the sanitary crisis in the railway sector: based on its expertise, as well as its extensive network of communication channels with authorities, operators, and manufacturers, the Agency set up an Information Platform to facilitate and promote the sharing of best practices. ERA and the European Centre for Disease Prevention and Control (ECDC) also jointly developed operational guidelines with the Covid-19 railway protocol (published 21 July 2020). It complemented measures taken by the Commission to support Member States in re-launching safe mobility and tourism.

https://www.era.europa.eu/sites/default/files/events-news/docs/covid-19_rail_protocol_en.pdf

On 28 October 2020, in view of the Covid-19 resurgence and new mobility restrictions introduced by some Member States, the Commission proposed to extend the Green Lane approach to ensure that multi-modal transport works effectively in areas including rail and waterborne freight and air cargo, and provided additional guidance to facilitate application in practice, on issues such as electronic documentation, and availability of rest and refuelling points. Member States should ensure the seamless free movement of goods across the Single Market.

https://ec.europa.eu/transport/sites/transport/files/legislation/com20200685-green-lanes-upgrade_en.pdf

The railway sector was significantly impacted by the crisis. During the peak of the pandemic in Spring 2020, international rail passenger services were in standstill, whereas long distance rail passenger service decreased by -85% and regional rail passenger service (including suburban) by -80%. On the other hand, rail freight transport was largely exempted from restriction measures, but operators reported a reduction of freight volumes in the range of 20 to 50% due to the economic slowdown.

Information provided by the industry indicates the following estimates of the economic and financial impact of the crisis on railway operators at EU level:

- Passenger services: 35% loss of turnover over the first semester 2020 and 31% loss for the whole year 2020, amounting to €10 billion loss over the first semester and €17.9 billion for the whole year 2020;
- Freight transport: 15% loss of turnover over the first semester 2020 and 16.5% loss for the whole year 2020, amounting to €1.25 billion loss over the first semester and €2.75 billion for the whole year 2020.

In order to mitigate the negative economic impact of the pandemic on railway operators, based on a Commission's proposal, the EU adopted a regulation establishing measures for a sustainable rail market in view of the COVID-19 outbreak, which entered into force on 12 October 2020: Member States may authorize infrastructure managers to waive, reduce and defer track access charges for the use of rail infrastructure, as well as to not levy reservation charges within a period from 1 March until 31 December 2020. The regulation requires a financial compensation of infrastructure managers to offset the losses stemming from the reduction of charges. The regulation also requires the Commission to continuously analyse the economic impact of the sanitary crisis on the rail sector and provides for the possibility to prolong the period during which the measures apply if the adverse conditions persist. The Commission may then decide to extend the reference period by up to six months.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R1429>

Sustainable and smart mobility strategy

In 2019, the Commission's Communication on the European Green Deal announced that the Commission would adopt a strategy for sustainable and smart mobility in 2020. A key objective is to deliver a 90% reduction in transport-related greenhouse gas emissions by 2050. The strategy will ensure that the EU transport sector is fit for a clean, digital and modern economy, aiming at increasing the uptake of zero-emission vehicles, making sustainable alternative solutions, supporting digitalization & automation, and improving connectivity & access. The strategy will set a pathway for the green and digital transitions, building a resilient transport system for the future. In this framework, EU rail transport policies will play a significant role. The strategy will take the form of a Commission's Communication to the European Parliament and the Council of the European Union, with an accompanying Staff Working Document; adoption is planned for the end of this 2020.

Single European Rail Area

Monitoring the railway markets is necessary in order to inform the policy choices both at EU and national level. Since 2007, the Commission has collected data on rail market developments in the EU Member States and publishes, every two years, a Rail Market Monitoring Survey report (RMMS), addressed to the European Parliament and the Council of the European Union. The report provides an overview of the main developments in rail markets and covers a broad range of topics such as the use of EU rail networks, the evolution of rail services in the internal market, as well as the evolution of framework conditions in the rail sector such as infrastructure charging, capacity allocation, limitations and barriers to more effective services, investments made in railway infrastructure, prices, quality of services, use of public service contracts, degree of market opening and utilisation of access right, licensing, employment and related social conditions. In February 2019, the Commission adopted the sixth edition of the RMMS report, available on the Commission's website: https://ec.europa.eu/transport/modes/rail/market/market_monitoring_en. The seventh edition of the RMMS report including data and indicators until 2018 is being drafted and should be adopted in the beginning of 2021. The report itself, the accompanying Staff Working Document, the dataset used and relevant infographics will be also made available on the Commission's website.

The Commission has evaluated the Implementing Regulation (EU) 2015/429 setting out the modalities to be followed for the charging of the cost of noise effects, otherwise known as noise-differentiated track access charges (NDTAC). A support study, with a significant input from the sector, was finalised in October 2019. In the coming months the Commission will publish its evaluation.

In order to promote a level playing field in the provision of rail services, the Commission funded the development of a GIS web-based portal, allowing rail service facility operators to upload the description of their facilities in a single platform – a pre-requisite for enabling rail operators to access and use service facilities on a non-discriminatory basis. The European Rail Facilities Portal (<https://railfacilitiesportal.eu/>) became operational in June 2019. The focus is on facilities located in the EU and along the EU rail freight corridors, but the Portal can also include information on rail facilities in third countries.

In 2020, on the request of the European Parliament, the Commission has started a comprehensive study on cross-border long distance rail passenger services, including night trains. The results are expected in the summer of 2021 and are envisaged to include a set of concrete measures to support these types of services as well as measures to remove any obstacles identified. This study coincides with Member States' initiatives on the very subject: the Netherlands have initiated a Member State Platform to support the development of long-distance cross-border services and Germany has presented the TEE 2.0 concept of a European wide network of long-distance high-speed trains and night train services.

The Commission has proposed to make 2021 the European Year of Rail, to support the delivery of its European Green Deal objectives in the transport field. A series of events, campaigns and initiatives in 2021 will promote rail as a sustainable, innovative and safe mode of transport. It will highlight its benefits for people, the economy and the climate and focus on the remaining challenges to create a true Single European Rail Area without borders. The Commission's proposal now needs to be adopted by the European Parliament and the Council of the European Union.

Rail safety and interoperability

The technical pillar of the 4th Railway Package will enhance rail interoperability and safety in Europe, in particular through *inter alia* an enhanced role of the European Union Agency for Railways (ERA), a renewed framework for railway safety aiming at promoting the safety culture, and an increased harmonisation at EU level to improve railway interoperability. The technical pillar, adopted in May 2016, includes three legislative acts:

- Regulation (EU) 2016/796 on the European Union Agency for Railways and repealing Regulation (EC) n° 881/2004;
- Directive (EU) 2016/797 on the interoperability of the rail system within the European Union (Recast of Directive 2008/57/EC);
- Directive (EU) 2016/798 on railway safety (Recast of Directive 2004/49/EC).

As of 16 June 2019, ERA started its role as EU authorising and certifying authority. The first vehicle authorisation was issued on 5 July 2019 and the first single safety certificate was issued on 16 September 2019. By September 2020, ERA has issued over 950 vehicle authorisations representing more than 11,000 vehicles, delivered 14 single safety certificates and 14 ERTMS trackside approvals.

The Fourth Railway Package technical pillar is a full-fledged framework across the EU since 31 October 2020.

European Rail Traffic Management System

The European Rail Traffic Management System (ERTMS) is a major industrial programme to harmonise the automatic train control and communication system and underpin

interoperability throughout the rail system in Europe. The deployment of ERTMS will provide the backbone for a digital, connected Single European Rail Area.

Overall, 85 “Connecting Europe Facility” (CEF) ERTMS-related Actions were retained so far for funding under the general and cohesion CEF envelopes as well as Blending Facility instrument during the current EU Multiannual Financing Framework, including:

- 58 Actions retained under dedicated ERTMS calls’ priority. These calls addressed predominantly ERTMS deployment but covered also auxiliary necessary tasks such as interlockings’ modernisation. The Actions were granted an initial total CEF Transport funding of €1.3 billion, including €1 billion for pure ERTMS deployment. In addition, 8 Actions have been retained under the latest dedicated ERTMS Call 2019. This Call covered only on-board prototype ERTMS deployment and CEF support was based on the Unit Contribution principle. The Grant Agreements for these Actions are being currently signed. An indicative amount of CEF Transport funding amounts to €42.7 million;
- 18 Actions retained under the Core Network Corridors (CNC) calls’ priority. These calls addressed predominantly railway infrastructure works, but covered, among others, the deployment of ERTMS through so called “combined” Actions encompassing both rail and ERTMS infrastructure components. These specific Actions were granted an initial CEF Transport funding of €3.7 billion, including €121.6 million for pure ERTMS deployment;
- 1 Action retained under an innovative CEF Blending Facility launched in 2019 to combine private financing and European support. CEF support to ERTMS is based on the Unit Contribution principle. The Call is open until the beginning of 2021, hence more ERTMS Actions may be retained. So far, the first ERTMS Action selected within this Call was granted an initial CEF Transport funding of €7.15 million for the on-board deployment.

The Innovation and Networks Executive Agency (INEA) and the Commission monitor the implementation of the CEF-supported Actions. Adjustments of the Actions are possible, when implementation problems are identified. This may result in cancellations or modifications of the signed Grant Agreements.

European Rail Network for Competitive Freight

In addition to its general railway policy and legislation (railway packages), the European Union adopted in 2010 Regulation (EU) No 913/2010 concerning a European Rail Network for Competitive Freight. The Regulation requires Member States to establish international market-oriented Rail Freight Corridors with the view to:

- Strengthening co-operation between rail infrastructure managers on key operational aspects (e.g. allocation of paths, deployment of interoperable systems and traffic management) as well as on improving rail infrastructure by coordinating investments;
- Giving adequate capacity and priority for freight in line with market needs and ensuring that common punctuality targets for freight trains are met;
- Promoting intermodality between rail and other transport modes by integrating terminals into the corridor management and development.

The implementation of international rail freight corridors is conducted in a manner consistent with the development of the Trans-European Transport Network (TEN-T) and the European Railway Traffic Management System (ERTMS) corridors.

There are currently 11 Rail Freight Corridors (RFCs). In addition to the 9 initial RFCs provided for in Regulation (EU) No 913/2010, the Commission approved in 2017 the creation of the Amber rail freight corridor stretching across the territory of Poland, Slovakia and Slovenia (Commission Implementing Decision (EU) 2017/177). The Amber rail freight corridor became operational in 2019. In March 2018, the Commission also approved the proposal of Austria, Bulgaria, Croatia, Serbia and Slovenia to create the Alpine-Western Balkan rail freight corridor (Commission Implementing Decision (EU) 2018/500). The freight corridor became operational in the spring of 2020. More information and maps may be found on RailNetEurope's website: <http://www.rne.eu>.

In 2019, the Commission launched an evaluation of Regulation (EU) No 913/2010, which should be completed in 2020. The evaluation includes an evaluation study by an independent contractor and an open public consultation accessible via the Commission's website (https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2019-1375253_en).

In parallel, the Commission is also evaluating the Trans-European Network Transport (TEN-T) Guidelines (Regulation (EU) No 1315/2013), which is the legislation focussed on the development of physical transport infrastructure, including for rail. The two legal acts are closely connected and the two evaluations are complementary – covering both rail infrastructure development and transport operations.

Transport of dangerous goods

To ensure the adaptation to scientific and technical progress of the provisions governing the carriage of dangerous goods by rail, in view of the entry into force of the Edition 2021 of RID, the Council adopted the Council Decision (EU) 2020/649 of 7 May 2020 on the position to be taken on behalf of the European Union during the 56th session of the Committee of Experts for the Carriage of Dangerous Goods of the Intergovernmental Organisation for International Carriage by Rail as regards certain amendments to Appendix C to the Convention concerning International Carriage by Rail; in turn, on 2 October 2020 the Commission adopted a delegated act amending the Annexes to Directive 2008/68/EC as regards adaptation to scientific and technical progress” (document C(2020)6661), in order to integrate the Edition 2021 of RID into the EU legislation.

Rail Security

In June 2018, the European Commission adopted a rail security action plan listing seven concrete measures to improve passenger railway security. The aim is to promote a security approach based on risk-assessment, which allows a prompt and proportionate response to emerging threats whilst keeping rail services accessible. To support the implementation of the action plan, the Commission established the “EU Rail Passenger Security Platform”, a group gathering Member States’ authorities competent in the field of rail security as well as interested stakeholders.

In 2020, the Platform adopted good practices on the mitigation of insider threats in the rail sector and endorsed a new methodology for rail security risk-assessment. This complements previous deliverables adopted in 2019, such as a set of good practices on security and detection technologies adapted to railways. During that year, the Commission and the Member States had also conducted an EU-wide risk-assessment of the main security threats in the rail sector.

The implementation of the rail security plan is now in its final stretch. The remaining action is planned for completion by end 2020, with the Platform expected to endorse guidelines facilitating the adoption of rail security management plans and programmes at national and

companies' level. The year 2021 will mark the end of the current mandate of the Platform and the Commission intends to launch a reflection on the future of EU-level rail security.

Rail Passenger Rights Regulation

In view of the Commission's legislative proposal (September 2017) for recast of the Rail Passenger Rights Regulation 1371/2007 the European Parliament and the Council of the European Union reached a provisional agreement on 1 October 2020. The new rules should enter into force in the first half of 2021. They will apply after a 24-month transition period.

The new rules will improve passengers' information, including the provision of real-time information irrespective of whether the passenger bought the ticket from the railway undertaking or from a ticket vendor or tour operator. The rights of persons with disabilities and reduced mobility are increased and the pre-notification period for assistance is decreased from 48h to 24h. A "force majeure" clause, which ensures a level playing field between rail and other transport modes, has been introduced. It exempts rail carriers from liability to pay compensation for delays, missed connections and cancellations, which are inherently linked to extraordinary circumstances where the carrier could neither prevent these events nor avoid their consequences irrespective of having taken the due care required. The offer of through-tickets on the market would enhance since rail carriers which are "sole undertakings" will be obliged to offer their international, long-distance domestic and regional services as a through-ticket, granting passengers a comprehensive protection in cases of travel disruptions. In cases of delays, cancellations and missed connections, where the rail carrier does not offer a solution for journey continuation or re-routing within 100 minutes, the passenger would be allowed to organise such a solution, while the carrier will be obliged to reimburse the necessary, appropriate and reasonable costs incurred for that alternative public (rail or bus) transport ticket. Moreover, railway undertakings have to ensure on-board new or major refurbished trains an adequate number of reserved spaces for bicycles, which would further boost multi-modal traveling.

A general non-discrimination clause and an improved complaint-handling rules will further strengthen protection of rail passengers. A new EU-wide standardised form for compensation and reimbursement will be developed by the Commission.

As until now, Member States could decide to exempt urban/suburban and regional services, but under the new rules an increased number of mandatory provisions will apply. Exemptions to domestic long-distance services would be possible only for Member States which currently apply such exemptions and would be limited in time and scope. Even where Member States exempt long-distance domestic or regional services, the protection granted to persons with disabilities and reduced mobility will apply to these services.

Innovation and research: Rail European Partnership

The European Commission is putting forward a proposal for a European Partnership on Rail Research and Innovation. The Europe's Rail Partnership (successor to Shift2Rail Joint Undertaking) is expected to deliver a major transformation of the European railway system. This should be achieved through a system-integrated approach focusing on decarbonisation, automation and digitalisation. The Partnership will deliver solutions that meet the needs of all stakeholders and can be rapidly deployed network wide via a dedicated System Pillar. This will develop the overall framework within which individual R&I projects will be defined, taking into account interfaces within different rail segments and other modes.

The Partnership will also contribute to retaining the EU leadership role in producing innovative rail transport solutions, hence generating growth and jobs in Europe. In addition,

the proposed Partnership will contribute to the EU policy development, in particular the consolidation of the Single European Railway Area and the achievement of the Green Deal objectives. The following impacts can be expected:

- Reduction in transport emission by Increasing the attractiveness of rail, incentivising a shift of transport away from polluting modes to rail;
- Increase in rail's modal share of passenger and freight markets;
- Improvement in the competitiveness of the Rail Supply Industry;
- Accelerated and coordinated deployment of innovative solutions, increasing capacity, flexibility and reliability.

In order to exploit the potential of the programme, the core membership of the Rail Europe's Partnership would consist of the following stakeholder categories:

- Infrastructure managers;
- Rail freight and passenger operators, including urban;
- Rolling stock manufacturers;
- Signalling systems' manufacturers;
- Infrastructure manufacturers;
- ICT solutions providers (ticketing and data);
- Rail research centres.

Synergies with other funding sources and financing mechanisms, in particular the Connecting Europe Facility (CEF) would support the deployment of the innovative solutions. Synergies with the European Regional Development Fund and Cohesion Fund would contribute to increase economic and social cohesion and reduce imbalances.

Transport Community: rail strategy in the Western Balkans

The Transport Community is an international organisation established by a Treaty signed in 2017 and ratified by the European Union and six Western Balkan partners (Albania, Bosnia and Herzegovina, North Macedonia, Kosovo¹, Montenegro, and Serbia). It applies in the field of road, rail, inland waterway and maritime transport and provides for the progressive integration of transport markets and networks on the basis of the relevant EU legislation, including in the areas of technical standards, interoperability, safety, security, traffic management, competition, social policy, public procurement and environment. The Transport Community is supported by a Permanent Secretariat, based in Belgrade, Serbia.

On 2 February 2018, the Commission adopted a Communication on a credible enlargement perspective for and enhanced EU engagement with the Western Balkans and called for a new rail strategy in the Western Balkans. To meet this objective, the six regional partners adopted on 10 December 2018 a Joint declaration for a new Regional Rail Strategy, endorsed by Transport Ministers and representatives of the Western Balkans parties, meeting at the occasion of the second Ministerial Council of the Transport Community.

In the framework of the Transport Community Treaty (TCT), a standing Technical Committee on Railways was established in 2019 to bring together relevant expertise from the six regional partners and from the European Commission. External stakeholders may be

¹ This designation is without prejudice to positions on status and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

invited to participate, including European and international institutions active in the region. In 2019 and 2020, seven meetings were held to develop a comprehensive action plan, including specific objectives, deadlines, monitoring and reporting mechanisms.

The Rail Action Plan was formally adopted by the Ministerial Council of the Transport Community on 26th October 2020, focusing on six policy areas: rail market opening, passenger rights, border/common crossing operations, interoperability, governance, and modernisation of rail infrastructure. It provides the basis and roadmap for deeper integration with the EU rail market and network and aims at a rail system which is safe, resilient, sustainable, and inter-connected within the region and with the EU.

<https://www.transport-community.org/wp-content/uploads/2020/10/Action-Plan-for-Rail.pdf>

The Technical Committee on Railways will also coordinate the implementation of four policy priorities of common interest at regional level: (1) Increasing the safety on the level crossings; (2) Establishing Electronic Vehicle Registers; (3) Establishing Rail Infrastructure Asset Management Systems; (4) Connecting WB6 capitals with Intercity Express train.

To enhance its capacity, the Permanent Secretariat of the Transport Community established partnerships with relevant rail organisation, including an Administrative Arrangement with the European Union Agency for Railways (13.09.2019) and a Memorandum of Understanding with the Shift2Rail Joint Undertaking (26.10.2020).

Additional information may be found on: <https://www.transport-community.org/>

Lately, on 6 October 2020, the European Commission adopted a new Communication “An Economic and Investment Plan for the Western Balkans”, which aims to spur the long-term economic recovery of the region, support a green and digital transition, and foster regional integration and convergence with the European Union. The Commission proposes to mobilise up to €9 billion for the period 2021-2027 to support economic convergence with the EU, primarily through investments and support to competitiveness and growth, sustainable connectivity, and the twin green and digital transition.
