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Ábhar:	An Ceathrú Pacáiste Iarnróid: Togra le haghaidh Treoir ó Pharlaimint na hEorpa agus ón gComhairle lena leasaítear Treoir 2012/34/AE lena mbunaítear Limistéar Eorpach aonair iarnróid maidir leis an margadh le haghaidh seirbhísí intíre iompair do phaisinéirí d'iarnród a oscailt agus maidir le rialachas an bhonneagair iarnróid Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle lena leasaítear Rialachán (CE) Uimh. 1370/2007 maidir leis an margadh le haghaidh seirbhísí intíre iompair do phaisinéirí d'iarnród a oscailt - Cur chuige Ginearálta

I. Réamhrá

An 30 Eanáir 2013, chuir an Coimisiún an ceathrú Pacáiste Iarnróid i láthair, ina bhfuil sé cinn de thograí reachtacha agus é mar chuspóir leo deireadh a chur leis na bacainní atá fós ann leis an Limistéar Eorpach Aonair Iarnróid a chur i gcrích agus lena gcuideofar, dá dhroim sin, le cion módach an iarnróid i dtaca le hiompar laistigh den Aontas a mhéadú.

Go sonrach, is é príomh-chuspóir an phacáiste reachtaigh sin caighdeán agus éifeachtúlacht seirbhísí iarnróid a fheabhsú trí dheireadh a chur le constaicí dlíthiúla, institiúideacha agus teicniúla atá fós ann, lena gcothófar feidhmíocht agus iomaíochas na hearnála iarnróid.

Féadtar an pacáiste reachtach a roinnt ina dhá cholún: colún "teicniúil" agus colún "margaidh".

Thángthas ar chomhaontú le Parlaimint na hEorpa maidir leis an gcolún teicniúil i mí an Mheithimh 2015. Faoi cholún an mhargaidh, tá dhá thogra ón gCoimisiún á bplé ag an gComhairle, mar atá, an togra le haghaidh Treoir lena leasaítear Treoir 2012/34/AE lena mbunaítear Limistéar Eorpach Aonair Iarnróid maidir leis an margadh le haghaidh seirbhísí intíre iompair do phaisinéirí d'iarnród a oscailt agus maidir le rialachas an bhonneagair iarnróid ("an Treoir Rialachais") agus an togra le haghaidh Rialachán lena leasaítear Rialachán (CE) Uimh. 1370/2007 maidir leis an margadh le haghaidh seirbhísí intíre iompair do phaisinéirí d'iarnród a oscailt ("Rialachán PSO").

II. An obair a rinneadh i gcomhlachtaí na Comhairle

Cuireadh tús leis an scrúdú ar an trí thogra ón gCoimisiún maidir leis an gcolún margaidh ag an Meitheal um Iompar de Thalamh i mí Iúil 2014. Faoi Uachtaránacht na hIodáile, cuireadh díospóireacht bheartais ar bun agus glacadh tuarascáil ar dhul chun cinn. Le linn Uachtaránacht na Laitvia, cuireadh díospóireacht bheartais eile ar bun agus glacadh an dara tuarascáil ar dhul chun cinn.

I mí Iúil 2015, chuir Uachtaránacht Lúcsamburg a tograí comhréitigh maidir leis an Treoir Rialachais agus maidir le Rialachán PSO faoi bhráid na Meithle. Scrúdaíodh ag cruinnithe na Meithle iad ar an 9, 16 agus 23 Iúil, agus freisin ar an 8, 10, 16, 17 agus 22 Meán Fómhair.

An 30 Meán Fómhair, scrúdaigh COREPER tograí comhréitigh athbhreithnithe na hUachtaránachta. Le linn an chruinnithe sin, réitíodh formhór na gceisteanna a bhí fós gan réiteach. Mar sin féin, tá dhá cheist fós ann ar gá iad a fhreagairt. Thug an Uachtaránacht dá haire na tuairimí ó na toscaireachtaí agus tá sí ag moladh téacsanna athbhreithnithe a bheidh le scrúdú ag an hAiri.

Aon athrú a rinneadh sna hIarscríbhinní a ghabhann leis an tuarascáil seo i gcomparáid leis an tuarascáil chuig COREPER, léirítear iad le **cló trom agus le líne fúthu** agus le [...].

Tá forchoimeádas grinnscrúdaithe ag na toscaireachtaí uile maidir leis na hathruithe sin.

Tá forchoimeádas grinnscrúdaithe parlaiminte ag UK freisin.

III. Sainchesiteanna atá fós le réiteach

Thug an Uachtaránacht dá h-aire na tuairimí maidir leis an dá théacs a tháinig ó roinnt Ballstát ag cruinniú COREPER i ndáil leis na hidirthréimhsí. Tá an Uachtaránacht den tuairim go bhfuil an comhréiteach aici ar an gceist seo cothrom, os rud é gur mian le roinnt Ballstát idirthréimhsí níos faide a bheith acu fad agus gur mian le roinnt eile iad a ghiorrú. Is é is dóchúla go bpléifear an cheist sin le linn na caibidlíochta le Parlaimint na hEorpa ar aon chuma.

Tar éis an phlé a bhí ag cruinniú COREPER, tá an Uachtaránacht den tuairim gur gá do na hAiri cinneadh a dhéanamh maidir leis an dá mhír a liostaítear thíos d'fhonn teacht ar chur chuige ginearálta don dá chomhad sin.

An Treoir Rialachais

Comhtháthú idir an Treoir Rialachais agus Rialachán PSO - Airteagal 10(2)

Ag cruinniú COREPER, chuir toscaireacht amháin moladh do théacs isteach a dhírigh ar dheimhneacht dhlíthiúil a áirithiú maidir le forálacha a d'fhéadfadh a bheith i gcodarsnacht lena chéile sa Treoir Rialachais agus sa Rialachán PSO i ndáil le prionsabal na saor-rochtana ar bhonneagair iarnróid. Thacaigh roinnt toscaireachtaí eile leis an téacs sin. Chuir toscaireachtaí eile in iúl, áfach, gur cúis mhór inní dóibh é de bharr gur shíl siad go gcruthófaí éagothroime le moladh mar sin agus go mbainfí an bonn den chothromaíocht idir Rialachán PSO agus an Treoir Rialachais.

Tar éis an phlé sin, chuir an Uachtaránacht roinnt tograí comhréitigh i láthair d'fhonn faoiseamh a thabhairt do na toscaireachtaí sin a labhair amach faoin inní a bhí orthu ag cruinniú COREPER. Rinneadh athrú amháin ar Airteagal 10(2) den Treoir Rialachais, agus cuireadh tuilleadh soiléirithe isteach in aithris chomhfhreagrach. Léirítear an hathruithe sin sa téacs in Iarscríbhinn I.

Rialachán PSO

Maolú sealadach i gcásanna eisceachtúla - Airteagal 5(3a)

Ag cruinniú COREPER, mhol toscaireacht amháin roinnt athruithe a dhéanamh ar théacs na hUachtaránachta maidir le hAirteagal 5(3a). San fhoráil sin tugtar isteach maolú sealadach a bheidh teoranta do thréimhse seacht mbliana agus a bhfuil sé mar aidhm leis díriú ar chás na mBallstát sin a dhámhann conarthaí trí thairiscintí iomaíocha de ghnáth, ach ar mhaith leo a bheith in ann conarthaí seirbhíse poiblí nua a dhámhachtain go díreach, nuair a bheadh imthosca eisceachtúla i gceist. Liostaítear na h-imthosca eisceachtúla sin san fhoráil sin.

Cuireadh roinnt de na hathruithe a mhol an toscaireacht sin san áireamh sa téacs a mhol an Uachtaránacht in Iarscríbhinn II, ar cuireadh i láthair é freisin ag cruinniú Coreper.

IV. Conclúid

Iarrtar ar an gComhairle scrúdú a dhéanamh ar na téacsanna a leagtar amach sna hIarscríbhinní a ghabhann leis an tuarascáil seo, tabhairt faoi na ceistanna atá fós gan réiteach agus cur chuige ginearálta maidir leis an dá théacs a ghlacadh ag a seisiún den 8 Deireadh Fómhair 2015.

Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU establishing a Single European Railway Area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure

Article 1

Directive 2012/34/EU is amended as follows:

-1. Article 2 is amended as follows:

(a) The first sentence of paragraph 3 is replaced by the following:

'(3) Member States may exclude the following from the application of Articles 7, 7a, 7b, 7c, 7d, 8 and 13 and Chapter IV:';

(aa) A new paragraph 3a is added:

"3a. Member States may exclude the following from the application of Articles 7, 7a, 7b, 7c, 7d and 8:

Local, low-traffic lines of a length not exceeding 100 km, which are used for freight traffic between a mainline and points of origin and destination of shipments along those lines, provided that these lines are managed by entities other than the main infrastructure manager and either a) are used by a single freight operator or b) the essential functions are performed by a body which is not controlled by any railway undertaking [...]. In case there is only a single freight operator, Member States may also exempt it from the application of Chapter IV until capacity is requested by another applicant. This provision can equally be applied where the line is used also, to a limited extent, for passenger services. Member States shall inform the Commission of their intention to exclude such lines from the application of Articles 7, 7a, 7b, 7c, 7d and 8."

(ab) A new paragraph 3b is added:

"3b. Member States may exclude the following from the application of Article 7, 7a, 7b, 7c and 7d:

Regional low-traffic networks managed by an entity other than the main infrastructure manager and used for the operation of regional passenger services provided by a single railway undertaking other than the incumbent railway undertaking of the Member State, until capacity for passenger services on that network is requested, and provided that the undertaking is independent of any railway undertaking operating freight services. This provision can equally be applied where the line is used also, to a limited extent, for freight services. Member States shall inform the Commission of their intention to exclude such lines from the application of Articles 7, 7a, 7b, 7c and 7d. "

(b) Paragraph 4 is replaced by the following:

'(4) Without prejudice to paragraph 3, Member States may exclude local and regional railway infrastructures which do not have any strategic importance for the functioning of the railway market from the application of Articles 8(3) and local railway infrastructures which do not have any strategic importance for the functioning of the railway market from the application of Articles 7, 7a, 7c and Chapter IV. Member States shall notify the Commission of their intention to exclude such railway infrastructures. In accordance with the advisory procedure referred to in Article 62(2), the Commission shall decide whether such railway infrastructure may be considered to be without any strategic importance, taking into account the length of railway lines concerned, their level of use and the traffic volume potentially impacted.';

(ba) Cuirtear isteach mír nua 8a:

"(8a) For a period of 10 years after the date of entry into force of the Directive, Member States may exclude from the application of Chapters II and IV of the Directive, with the exception of Articles 10, 13 and 56, isolated railway lines of less than 500 km with a different track gauge than the main domestic network, that connect with a third country where EU rail legislation does not apply and which are managed by a different infrastructure manager than the main domestic network. Railway undertakings operating exclusively on such lines may be exempted from the application of Chapter II.

The exemption may be renewed for periods not exceeding 5 years. No later than 12 months before the expiry date of the exemption, a Member State that intends to renew the exemption shall notify the Commission of its intention. The Commission shall examine whether the conditions for an exemption as referred to in the subparagraph above are still met. If those conditions are not met, the Commission shall adopt a decision on the termination of the exemption in accordance with the advisory procedure referred to in Article 62(2)."

(c) Paragraph 12 is inserted:

'(12) Where, in the context of an existing public-private partnership concluded before 16 June 2015, the private party to this partnership is also a railway undertaking responsible for providing passenger railway services on the infrastructure, Member States may continue to exempt such a private party from the application of Articles 7, 7a and 7d and limit the right to pick up and set down passengers for services operated by railway undertakings on the same infrastructure as the passenger services provided by the private party under the public-private partnership.'

(d) Paragraph 13 is inserted:

"(13) Private infrastructure managers that are part of a public-private partnership concluded before [date of entry into force of the Directive] and that do not receive public funds shall be excluded from the application of Article 7d provided that loans and financial guarantees operated by the infrastructure manager do not benefit directly or indirectly to specific railway undertakings."

1. Article 3 is amended as follows:

(a) Point 2 is replaced by the following: ¹

(2) "infrastructure manager" means any body or firm responsible for the operation, maintenance and renewal of railway infrastructure on a network, and for participating in its development as determined by the Member State within the framework of its general policy on development and financing of infrastructure;

(2a) "development of the railway infrastructure" means network planning, financial and investment planning as well as the building and upgrading of the infrastructure;

(2aa) "operation of the railway infrastructure" means train path allocation, traffic management and infrastructure charging;²

(2b) "maintenance of the railway infrastructure" means works intended to maintain the condition and capability of existing infrastructure;

¹ A recital could be included to clarify that operation of railway infrastructure is possible as separate structures, vertically integrated undertakings or vertically integrated undertakings combined with outsourcing.

² A recital could be included to clarify that the operation of the railway infrastructure includes control, command and signalling. A recital will be included to clarify that in this context, it should be ensured that the infrastructure is suitable for its designated use.

- (2c) "renewal of the railway infrastructure" means major substitution works on the existing infrastructure which do not change its overall performance;
- (2d) "upgrade of the railway infrastructure" means major modification works of the infrastructure which improve [...] its overall performance;
- (2e) "essential functions" of infrastructure management means decision making on train path allocation, including both the definition and the assessment of availability and the allocation of individual train paths, and decision-making on infrastructure charging, including determination and collection of charges, in accordance with the charging framework and the capacity allocation framework established by the Member States pursuant to Articles 29 and 39.'

(b) The following points are added:

'(31) "vertically integrated undertaking" means an undertaking where, in the meaning of Council Regulation (EC) No 139/2004:

- an infrastructure manager is controlled by an undertaking which at the same time controls one or several railway undertakings that operate rail services on the infrastructure manager's network or
- an infrastructure manager is controlled by one or several railway undertakings that operate rail services on the infrastructure manager's network or
- one or several railway undertakings that operate rail services on the infrastructure manager's network are controlled by an infrastructure manager.

It also means an undertaking consisting of distinct divisions, including an infrastructure manager and one or several divisions providing transport services that do not have a distinct legal personality.

Where an infrastructure manager and a railway undertaking are fully independent of each other, but both are controlled directly by a Member State without an intermediary entity, they are not considered to constitute a vertically integrated undertaking for the purposes of this Directive³.'

(32) "public private partnership" means a binding arrangement between public bodies and one or more undertakings other than the main infrastructure manager of a Member State⁴, under which the undertakings partially or totally construct and/or fund railway infrastructure and/or acquire the right to exercise any of the functions listed in point (2) for a predefined period of time. The arrangement may take any appropriate legally binding form foreseen in national legislation.

(33) "management board" means [...] **the senior** body of an undertaking performing executive and administrative functions, which is responsible and accountable for day-to-day management of the undertaking.

(33a) "supervisory board" means [...] **the most senior** body of an undertaking that fulfils supervisory tasks, including the exercise of control over the management board and general strategic decisions regarding the undertaking.

2. In Article 6, paragraph 2 is replaced by the following text:

"For the purpose of this Article, Member States which apply Article 7a(3) shall require the undertaking to be organised in distinct divisions that do not have a distinct legal personality within a single undertaking."

³ The notion of full independence for the purposes of this definition could be clarified in a recital. The "intermediary entity" should not be understood as a Ministry.

⁴ The fact that it is the Member State which determines which entity is the main infrastructure manager could be clarified in a recital.

3. Article 7 is replaced by the following:

"Article 7

Independence of the infrastructure manager

1. Member States shall ensure that the infrastructure manager is responsible for the operation, maintenance and renewal on a network and is entrusted with the development of the railway infrastructure on that network, in accordance with national law.

2. Member States shall ensure that the infrastructure manager is organised as an entity that is legally distinct from any railway undertaking and, in vertically integrated undertakings, from any other legal entities within the undertaking.

3. Member States shall ensure that the same individuals cannot be employed at the same time:

- as members of the management board of an infrastructure manager and of a railway undertaking,
- as persons in charge of taking decisions on the essential functions and as member of the management board of a railway undertaking,
- where a supervisory board exists, as members of the supervisory board of an infrastructure manager and of a railway undertaking.

4. In vertically integrated undertakings, the members of the management board of the infrastructure manager and the persons in charge of taking decisions on the essential functions shall not receive any financial benefits from railway undertakings or bonuses principally related to the financial performance of [...] particular railway undertakings. They can however be offered incentives related to the overall performance of the railway system.

5. Where information systems are common to different entities within a vertically integrated undertaking, access to sensitive information relating to essential functions shall be restricted to authorized staff of the infrastructure manager.

6. The provisions of paragraph 1 shall be without prejudice to the decision-making rights of Member States as regards the development and funding of railway infrastructure and the competences of Member States as regards infrastructure financing and charging, as well as capacity allocation, as defined in Articles 4(2), 8, 29 and 39."

4. The following Articles 7a to 7g are inserted:

"Article 7a

Independence of the essential functions

1. Member States shall ensure that the infrastructure manager has organizational and decision-making independence within the limits set out in Articles 4(2), 29 and 39, as regards the essential functions.

2. For the application of paragraph 1, Member States shall ensure in particular that:

- a railway undertaking or any other legal entity does not exercise a decisive influence on the infrastructure manager in relation to the essential functions, without prejudice to the role of the Member States as regards the determination of the charging framework and the capacity allocation framework and specific charging rules in accordance with Articles 29 and 39.
- a railway undertaking has no decisive influence on appointments and dismissals of persons in charge of taking decisions on the essential functions⁵.
- the mobility of persons in charge of the essential functions does not create conflicts of interest.

⁵ A recital could be included to clarify that complaint procedures are also covered.

3. Member States may decide that infrastructure charging and path allocation shall be performed by a charging body and by an allocation body that are independent in their legal form, organisation and decision-making from any railway undertaking. In such a case, Member States may decide not to apply the provisions of Article 7(2) and the third indent of Article 7(3).⁶Article 7(3), first indent and Article 7(4) shall apply *mutatis mutandis* to the heads of divisions in charge of management of the infrastructure and provision of railway services.

4. The provisions of this Directive referring to the essential functions of an infrastructure manager shall apply to the independent charging body and/or allocation body.

Article 7b

Impartiality of the infrastructure manager in respect of traffic management and maintenance planning

1. The functions of traffic management and maintenance planning shall be exercised in a transparent and non-discriminatory manner.

2. As regards traffic management, Member States shall ensure that railway undertakings have full and timely access to relevant information in cases of disruption concerning them. Where the infrastructure manager grants further access to the traffic management process, it shall do so for the railway undertakings concerned in a transparent and non-discriminatory way.

3. As regards the long-term planning of major maintenance and/or renewal of the railway infrastructure, the infrastructure manager shall consult applicants and shall take into account to the best possible extent the concerns expressed.

⁶ A recital could be included to explain how the relevant provisions of this Directive are applied *mutatis mutandis* to vertically integrated undertakings where the infrastructure manager and railway undertaking have no distinct legal personality but are organised in distinct divisions within a single undertaking.

Article 7c

Outsourcing and sharing the infrastructure manager's functions⁷

1. Provided that no conflicts of interest arise and the confidentiality of commercially sensitive information is guaranteed, the infrastructure manager may:

- (a) outsource functions to a different entity, provided the latter is neither a railway undertaking, nor controls a railway undertaking, nor is controlled by a railway undertaking;
- (b) outsource the execution of works and related tasks on [...] development, maintenance and renewal of the railway infrastructure to railway undertakings or companies which control the railway undertaking, or are controlled by the railway undertaking.

The infrastructure manager shall keep the supervisory power over and carry ultimate responsibility for the exercise of the functions described in Article 3(2). Any entity carrying out essential functions shall comply with Articles 7, 7a, 7b and 7d.

2. By derogation from Article 7(1), infrastructure management functions may be performed by different infrastructure managers, including parties to public-private partnership arrangements provided that they all fulfil the requirements of Articles 7(2) to (6), 7a, 7b and 7d and assume full responsibility for the exercise of the functions concerned.

⁷ A recital could be included to clarify that under national law, it may be a legislative act allowing for the outsourcing of the infrastructure manager's functions.

2a. When essential functions are not assigned to a power supply operator, it shall be exempted from the rules applicable to infrastructure managers, provided that compliance with the relevant provisions concerning development of the network, in particular Article 8, is ensured.

3. Subject to supervision by the independent competent body determined by the Member States, an infrastructure manager may conclude cooperation agreements with one or more railway undertakings in a non-discriminatory way and with a view to delivering benefits to customers such as reduced costs or improved performance on the part of the network covered by the agreement.

That body shall monitor the execution of such agreements and may, in justified cases, advise that they should be terminated.

Article 7d ⁸

Financial transparency

In addition to Article 6, the following provisions shall apply:

- (a) While respecting national procedures applicable in each Member State, income from infrastructure management activities, including public funds, may be used by the infrastructure manager only to finance its own business, including the servicing of its loans, and to pay dividends to the [...] owners⁹ of the company, which may include any private shareholders¹⁰.
- (b) Infrastructure managers shall not grant loans to railway undertakings, either directly or indirectly.
- (bb) Railway undertakings shall not grant loans to infrastructure managers, either directly or indirectly.
- (c) Loans between legal entities of a vertically integrated undertaking, shall only be granted, disbursed and serviced at market rates and conditions which reflect the individual risk profile of the entity concerned.
- (cc) Loans between legal entities of a vertically integrated undertaking granted before [date of entry into force of this Directive] shall continue until their maturity, provided that they were contracted at market rates and that they are actually disbursed and serviced.

⁸ A recital could be included to specify that the provision of Article 31 does not preclude a Member State from foreseeing that the infrastructure manager revenue from infrastructure charges transits through the State accounts.

⁹ A recital could be included to clarify that the owners of the company include the State and any private shareholders to the exclusion of the holding.

¹⁰ A recital could be included to clarify that it should be possible for the infrastructure manager to pay this revenue and dividends directly or via another entity within the undertaking.

- (d) Any services offered by other legal entities of a vertically integrated undertaking to the infrastructure manager shall be based on contracts and be paid either at market prices or at prices which reflect the cost of production, plus a reasonable margin of profit.
- (dd) Debts attributed to the infrastructure manager shall be clearly separated from debts attributed to other legal entities within vertically integrated undertakings. These debts shall be serviced separately. This does not prevent that the final payment of debts is made via the undertaking mentioned in Article 3 point 31, first indent, or via another entity within the undertaking.
- (de) The accounts of the infrastructure manager and of the other legal entities within a vertically integrated undertaking shall be kept in a way that ensures the fulfilment of these provisions and allows for separate accounting and transparent financial circuits within the undertaking.
- (f) Within vertically integrated undertakings, the infrastructure manager shall keep detailed records of any commercial and financial relations with the other legal entities within that undertaking.

Where essential functions are performed by an independent charging and capacity allocation body in accordance with Article 7a(3) and Member States are not applying Article 7(2), the provisions of this Article shall apply *mutatis mutandis*. References to infrastructure manager, railway undertaking and other legal entities of a vertically integrated undertaking in Article 7d shall be understood as referring to the respective divisions of the undertaking. Compliance with the requirements set out in Article 7d shall be demonstrated in the separate accounts of the respective divisions of the undertaking.

Article 7e

Coordination mechanisms

Where appropriate, Member States shall ensure that appropriate coordination mechanisms are put into place between their main infrastructure managers and all interested railway undertakings and applicants, as referred to in Article 8(3). Representative of users and local/regional authorities may be invited to participate. The coordination shall concern inter alia:

- (a) the needs of applicants related to the maintenance and development of the infrastructure capacity;
- (b) the content of the user-oriented performance targets contained in the contractual agreements referred to in Article 30 and of the incentives referred to in Article 30(1) and their implementation;
- (c) the content and implementation of the network statement referred to in Article 27;
- (d) issues of intermodality and interoperability;
- (e) any other issue related to the conditions for access and use of the infrastructure and the quality of the services of the infrastructure manager.

Article 7f

European Network of Infrastructure Managers¹¹

1. Member States shall ensure that their main infrastructure managers participate and cooperate in a network that convenes at regular intervals to:

- (a) develop the Union rail infrastructure,
- (b) support a timely and efficient implementation of the Single European Railway Area,
- (c) exchange best practices,
- (d) monitor performance, and
- (e) contribute to the market monitoring activities referred to in Article 15.

2. The Commission shall be a member of the network, and shall support its work."

¹¹ A recital could be included to clarify that the existing structures will be given a legal basis.

5. Article 10 is amended as follows:

(a) paragraph 2 is replaced by the following:

"2. **Without prejudice to Regulation (EC) N°1370/2007,** railway undertakings shall be granted, under equitable, non-discriminatory and transparent conditions, the right of access to railway infrastructure in all Member States for the purpose of operating [...]rail passenger services. Railway undertakings shall have the right to pick up passengers at any station and set them down at another. That right shall include access to infrastructure connecting service facilities referred to in point 2 of Annex II.";¹²

¹² A recital could be included to clarify that this provision ensuring free access to railway infrastructure for the provision of domestic passenger services is without prejudice to the prerogative of competent authorities when deciding which undertaking to consider for the direct award of PSO contracts: "The right of railway undertakings to be granted access to the infrastructure does not affect the possibility for a competent authority to grant exclusive rights in accordance with Article 3 of Regulation (EC) N° 1370/2007 or to award a public service contract directly under the conditions established in Article 5 of the same Regulation. The existence of such a public service contract should not entitle a Member State to prohibit other railway undertakings from accessing the railway infrastructure concerned for the provision of rail passenger services, unless such services would endanger the economic equilibrium of the PSO contract."

- (b) a new paragraph 1(a) is added:

"1(a). Without prejudice to the international obligations of the Union and the Member States, Member States having a border to a third country may limit the right of access provided for in Article 10 for services operated from/to that third country running on a network whose track gauge is different from the main railway network within the EU if distortions of competition arise in cross-border railway transport between Member States and that third country. Such distortions may result, inter alia, from lack of non-discriminatory access to rail infrastructure and related services in the third country concerned.

If a Member State, in accordance with this paragraph, intends to adopt a decision to limit right of access, it shall submit the draft decision to the European Commission and consult the other Member States accordingly.

If, within a period of three months, neither the Commission nor a Member State formulates objections, the Member State may adopt the decision.

The Commission may adopt measures setting out the details of the procedure and criteria to be followed for the application of this paragraph. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 62(3)."

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- (c) paragraphs 3 and 4 are deleted.

¹³ A recital could be included to clarify that Member States may decide that the conditions for granting the right of access to the railway infrastructure for the purpose of operating rail passenger services comprise conditions in order to enable a system of rail passenger services within an integrated timetable scheme.

6. Article 11 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. Member States may limit the right of access provided for in Article 10(2) to passenger services between a given place of departure and a given destination when one or more public service contracts cover the same route or an alternative route if the exercise of this right would compromise the economic equilibrium of the public service contract or contracts in question.';

(b) the first subparagraph of paragraph 2 is replaced by the following:

'In order to determine whether the economic equilibrium of a public service contract would be compromised, the relevant regulatory body or bodies referred to in Article 55 shall make an objective economic analysis and base its decision on pre-determined criteria. They shall determine this after a request from any of the following, submitted within one month from the information on the intended passenger service referred to in Article 38(4):

- (a) the competent authority or competent authorities that awarded the public service contract;
- (b) any other interested competent authority with the right to limit access under this Article;
- (c) the infrastructure manager;
- (d) the railway undertaking performing the public service contract.

(c) paragraph 3 is replaced by the following:

'3. The regulatory body shall give the grounds for its decision and the conditions under which a reconsideration of the decision within one month of its notification may be requested by one of the following:

- (a) the relevant competent authority or competent authorities;
- (b) the infrastructure manager;
- (c) the railway undertaking performing the public service contract;
- (d) the railway undertaking seeking access.

In case the regulatory body decides that the economic equilibrium of a public contract would be compromised by the intended passenger service referred to in Article 38(4), it shall indicate possible changes to such service which would ensure that the conditions to grant the right of access provided for in Article 10(2) are met.';

- (d) In paragraph 4, a second sentence is added as follows:

"The Commission shall adopt comparable measures by [36 months from the entry into force of this Directive] in relation to domestic passenger services."

(e) paragraph 5 is replaced by the following:

'5. Member States may also limit the right of access to railway infrastructure for the purpose of operating domestic passenger services between a given place of departure and a given destination within the same Member State when an exclusive right to convey passengers between these stations has been granted under a public service contract awarded before 16 June 2015 and where the public service operator receives no compensation to operate these services. Such a limitation may continue for the original duration of the contract, or 10 years from the date of entry into force of this Directive, whichever is shorter.'¹⁴

7. The following Article 13a is inserted:

'Article 13a

Common information and integrated ticketing schemes

1. Without prejudice to Regulation (EC) No 1371/2007¹⁵ and Directive 2010/40/EU¹⁶, Member States may require railway undertakings operating domestic passenger services to participate in a common information and integrated ticketing scheme for the supply of tickets, through-tickets and reservations or decide to give the power to competent authorities to establish such a scheme. If such a scheme is established, Member States shall ensure that it does not create market distortion or discriminate between railway undertakings and that it is managed by a public or private legal entity or an association of all railway undertakings operating passenger services.

2. Member States shall require railway undertakings operating passenger services to put in place contingency plans and shall ensure that these contingency plans are properly coordinated to provide assistance to passengers, in the sense of Article 18 of Regulation (EC) No 1371/2007, in the event of a major disruption to services.'

¹⁴ This issue should also be adequately reflected in the PSO text, inter alia to ensure some coherence between the time periods included in the PSO and Governance texts.

¹⁵ OJ L315, 3.12.2007, p. 14.

¹⁶ OJ L207, 6.8.2010, p. 1.

8. In Article 38, paragraph 4 is replaced by the following:

'4. Where an applicant intends to request infrastructure capacity with a view to operating a passenger service, in a Member State where the right of access to railway infrastructure is limited in accordance with Article 11, it shall inform the infrastructure managers and the regulatory bodies concerned no less than 18 months before the entry into force of the working timetable to which the request for capacity relates. In order to enable regulatory bodies concerned to assess the potential economic impact on existing public service contracts, regulatory bodies shall ensure that any competent authority that has awarded a rail passenger service on that route defined in a public service contract, any other interested competent authority with the right to limit access under Article 11 and any railway undertaking performing the public service contract on the route of that passenger service is informed without undue delay and at the latest within 10 days.'

9. In Article 63, paragraph 1 is replaced by the following:

'1. By 31 December 2024, the Commission shall evaluate the impact of this Directive on the rail sector and shall submit to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions a report on its implementation.

By the same date, the Commission shall assess whether discriminatory practices or other types of distortion of competition persist in relation to infrastructure managers which are part of a vertically integrated undertaking. The Commission shall, if appropriate, propose new legislative measures.'

10. In Article 56(1), the following letters (h), (i) and (j) are inserted:

'(h) traffic management;

(i) maintenance and renewal planning.

(j) compliance with the requirements set out in Articles 2(13), 7, 7a, 7b, 7c and 7d.'

11. Reference to "(g)" in paragraphs (2) and (9) of Article 56 is replaced by a reference to "(j)".

12. Article 56(12) is amended as follows:

"In order to verify compliance with accounting separation provisions laid down in Article 6 and provisions on financial transparency laid down in Article 7d, the regulatory body shall have the power to carry out audits or initiate external audits with infrastructure managers, operators of service facilities and, where relevant, railway undertakings. In the case of vertically integrated undertakings, these powers shall extend to all legal entities. The regulatory body shall be entitled to request any relevant information. In particular the regulatory body shall have the power to request infrastructure manager, operators of service facilities and all undertakings or other entities performing or integrating different types of rail transport or infrastructure management as referred to in Article 6(1) and (2) and Article 13 to provide all or part of the accounting information listed in Annex VIII with a sufficient level of detail as deemed necessary and proportionate.

Without prejudice to the powers of the national authorities responsible for State aid issues, the regulatory body may also draw conclusions from the accounts concerning State aid issues which it shall report to those authorities.

Financial flows referred to in Article 7d(a), loans referred to in Article 7d(c) and (cc), and debts referred to in Article 7d(dd) shall be subject to monitoring by the regulatory body.

Where a Member State has designated the regulatory body as the independent competent body referred to in Article 7c(3), the regulatory body shall assess the cooperation agreements referred to in that Article."

13. Article 32(4) is amended as follows:

"The infrastructure charges for the use of railway corridors which are specified in Commission Decision 2009/561/EC may be differentiated to give incentives to equip trains with the ETCS compliant with the version adopted by the Commission Decision 2008/386/EC and successive versions. Such differentiation shall not result in any overall increase in revenue for the infrastructure manager.

Member States may decide that this differentiation of infrastructure charges does not apply to railway lines specified in Decision 2009/561/EC on which only ETCS equipped trains may run.

Member States may decide to extend this differentiation to railway lines not specified in Decision 2009/561/EC."

14. A paragraph 10 is added to Article 57:

"10. For decisions concerning a bi-national infrastructure, Member States may require coordination between the regulatory bodies concerned to ensure an alignment of the impact of the decisions."

Article 2¹⁷

1. Notwithstanding Article 3(2), Member States shall adopt and publish, by 36 months after entry into force at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall communicate to the Commission the text of those provisions immediately.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

1. This Directive shall enter into force on the day following that of its publication in the Official Journal of the European Union.
2. Points 5 to 12 of Article 1 shall apply from 1 January 2020 in time for the working timetable starting on 14 December 2020.

¹⁷ The following recital could be included to clarify that Member States may maintain existing internal rules on market access under national law during the transitional period: "In the process of opening of national rail markets to competition by granting access to the networks to every railway undertaking, Member States should have a sufficiently long transitional period to adapt their national law as well as their national organisation. As a consequence, Member States should be able to maintain their existing national rules on market access until the end of the transitional period."

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

**Togra le haghaidh Rialachán ó Pharlaimint na hEorpa agus ón gComhairle lena leasaítear
Rialachán (CE) Uimh. 1370/2007 a bhaineann le margadh na seirbhísí intíre iompair
do phaisinéirí d'iarnród a oscailt**

Airteagal 1

Leasaítear Rialachán (CE) Uimh. 1370/2007 mar a leanas¹⁸:

1. Cuirtear an pointe seo a leanas isteach i ndiaidh phointe (a) d'Airteagal 2:

"(aa) ciallaíonn 'seirbhísí iompair poiblí do phaisinéirí d'iarnród' iompar poiblí paisinéirí d'iarnród cé is moite d'iompar paisinéirí ar mhodhanna eile rianbhunaithe, amhail mearchórais iarnróid cathrach nó trambhealaigh".

2. Cuirtear isteach Airteagal 2a seo a leanas:

"Airteagal 2a

Oibleagáidí seirbhíse poiblí a shonrú

1. Déanfaidh an t-údarás inniúil sonraíochtaí na n-oibleagáidí seirbhíse poiblí d'iompar poiblí do phaisinéirí agus an raon feidhme maidir lena gcur i bhfeidhm a shainiú i gcomhréir le hAirteagal 2(e).

Beidh na sonraíochtaí sin i gcomhréir le cuspóirí an bheartais iompair poiblí.

2. Le sonraíochtaí na n-oibleagáidí seirbhíse poiblí agus leis an gcúiteamh gaolmhar ar a n-iarmhairt ghlan airgeadais déanfar an méid seo a leanas:

- (a) cuspóirí an bheartais iompair poiblí a bhaint amach ar bhealach atá éifeachtach ó thaobh costais de. Áirítear leis sin go bhféadfaí seirbhísí lena gcumhdaítear costais a chur le seirbhísí nach gcumhdaítear costais leo;

¹⁸ D'fhéadfaí an aithris seo a leanas a chur isteach: 'Cuspóir sonrach leis an Rialachán seo is ea go bhfeabhsófar cáilíocht, trédhearcacht, éifeachtúlacht agus feidhmiú seirbhísí iompair poiblí do phaisinéirí d'iarnród.'

- (b) soláthar an iompair phoiblí do phaisinéirí a chothabháil ó thaobh an airgeadais de i gcomhréir leis na ceanglais a leagtar síos sa bheartas iompair phoiblí go fadtéarmach." ¹⁹ ²⁰

3. Leasaítear Airteagal 4 mar a leanas:

(0a) I mír 1, cuirtear an méid seo a leanas in ionad phointe (a):

"(a) na hoibleagáidí seirbhíse poiblí a leagtar síos in Airteagal 2(e) agus in Airteagal 2a atá le comhlíonadh ag an oibreoir seirbhíse poiblí, agus na limistéir gheografacha lena mbaineann, a shainiú go soiléir;"

(a) San abairt dheireanach de mhír 1, cuirtear an méid seo a leanas in ionad phointe (b):

"I gcás conarthaí seirbhíse poiblí nach ndámhtar i gcomhréir le hAirteagal 5(1) nó (3), cinnfear na paraiméadair sin sa chaoi nach féidir le haon íocaíocht cúitimh a bheith níos mó ná an méid atá de dhíth chun an iarmhairt ghlan airgeadais ar chostais arna dtabhú agus ar ioncam arna ghiniúint i gcomhlíonadh na n-oibleagáidí seirbhíse poiblí a chumhdach, agus ioncam lena mbaineann agus arna choinneáil ag an oibreoir seirbhíse poiblí agus brabús réasúnta á gcur san áireamh;"

(b) Cuirtear an méid seo a leanas in ionad mhír 6:

"6. I gcás ina gceanglaíonn údaráis inniúla, i gcomhréir leis an dlí náisiúnta, ar oibreoirí seirbhíse caighdeáin áirithe cháilíochta agus shóisialta a chomhlíonadh nó critéir shóisialta agus cháilíochtúla a bhunú, beidh na caighdeáin agus na critéir sin san áireamh sna doiciméid tairisceana agus sna conarthaí seirbhíse poiblí."

(c[...]) Cuirtear isteach mír 8 seo a leanas:

¹⁹ D'fhéadfaí an aithris seo a leanas a chur isteach: 'Ba cheart go mbeadh oibleagáidí seirbhíse poiblí i gcomhréir le beartas iompair phoiblí. Mar sin féin, ní fhágann sin go bhfuil na húdaráis inniúla i dteideal méid ar leith maoiniúcháin a fháil.'

²⁰ D'fhéadfaí an aithris seo a leanas a chur isteach: "D'fhonn na héagsúlachtaí atá ann maidir le riaradh críche agus le riaradh polaitiúil na mBallstát a chur san áireamh, féadfaidh údarás inniúil ar meascán d'údaráis phoiblí é conradh seirbhíse poiblí a dhámhachtain. Sna dálaí sin, ba cheart go leagfaí amach i rialacha soiléire na ról faoi seach a bheidh ag gach ceann díobh sa phróiseas chun conradh seirbhíse poiblí a dhámhachtain."

"8. Déanfaidh údaráis inniúla faisnéis ábhartha maidir le tairiscint a ullmhú faoi nós imeachta tairisceana iomaíoch a chur ar fáil do gach páirtí leasmhar agus cosaint dhlisteanach ar fhaisnéis rúnda gnó á cur san áireamh acu. Cuimseofar sa mhéid seo faisnéis maidir le héileamh ó phaisinéirí, táillí, costais agus ioncaim a bhaineann leis an iompar poiblí paisinéirí arna chumhdach leis an tairiscint agus sonraí faoi shonraíochtaí bonneagair atá ábhartha chun na feithiclí nó an rothstoc atá riachtanach a oibriú, le cur ar a gcumas pleananna eolasacha gnó a dhréachtú. Tacóidh bainisteoirí bonneagair iarnróid le húdaráis inniúla chun na sonraíochtaí bonneagair ábhartha go léir a sholáthar. Beidh neamhchomhlíonadh na bhforálacha a leagtar amach thuas faoi réir an athbhreithnithe dhlíthiúil dá bhforáiltear in Airteagal 5(7)."

4. Leasaítear Airteagal 5 mar a leanas:

(0a) Cuirtear an méid seo a leanas in ionad na chéad abairte de mhír 2:

"Mura dtoirmeascfar sin leis an dlí náisiúnta, féadfaidh aon údarás áitiúil inniúil, cibé údarás leithleach nó grúpa d'údaráis é a sholáthraíonn seirbhísí comhtháite iompair phoiblí do phaisinéirí, a chinneadh go soláthróidh sé féin seirbhísí iompair phoiblí do phaisinéirí nó go ndéanfaidh sé conarthaí seirbhíse poiblí a dhámhachtain go díreach d'eintiteas atá leithleach go dlíthiúil agus a ndéanann an t-údarás áitiúil inniúil, nó, i gcás grúpa d'údaráis ar a laghad údarás áitiúil inniúil amháin, rialú air is cosúil leis an rialú a dhéanann sé ar a ranna féin.

I gcás na seirbhíse poiblí in iompar d'iarnród, féadfaidh an grúpa údarás dá dtagraítear san **fhomhír** roimhe seo a bheith comhdhéanta d'údaráis áitiúla inniúla amháin a bhfuil réimse geografach inniúlachta acu nach réimse náisiúnta é. Féadfaidh nach gcumhdófar leis an tseirbhís phoiblí iompair do phaisinéirí nó leis an gconradh seirbhíse poiblí dá dtagraítear san **fhomhír** roimhe seo ach na riachtanais iompair atá ag ceirtleán uirbeach agus/nó ag ceantair tuaithe."²¹

(0aa) In Airteagal 5(3), cuirtear na focail "a shonraítear i míreanna 3a, [...] 4, 4a, 5 agus 6" in ionad na bhfocal "a shonraítear i mír 4, i mír 5 agus i mír 6".

²¹ D'fhéadfaí aithris a chur isteach d'fhonn a shoiléiriú gur faoi na Ballstáit atá sé a shainiú sa dlí náisiúnta céard atá i gceist leis na coincheapa ceirtleán uirbeach agus ceantair tuaithe: "Agus aird á tabhairt ar éagsúlacht na ranna riaracháin atá sna Ballstáit, i gcás conarthaí lena soláthraítear seirbhísí iompair phoiblí do phaisinéirí d'iarnród a dhámhann grúpa d'údaráis inniúla áitiúla go díreach, dá dtagraítear in Airteagal 5(2), is faoi na Ballstáit atá sé cinneadh a dhéanamh maidir leis na húdaráis áitiúla atá inniúil maidir leis na 'ceirtleáin uirbeacha' agus leis na 'ceantair tuaithe' lena mbaineann."

(0b) Cuirtear isteach mír 3a seo a leanas:

"3a. Maidir le conarthaí seirbhíse poiblí **d'iompar d'iarnród** a dhéantar a dhámhachtain ar bhonn nós imeachta iomaíoch tairisceana, féadfaidh an t-údarás inniúil cinneadh a dhéanamh, ar bhonn sealadach, conarthaí nua a dhámhachtain go díreach i gcás ina **measann an t-údarás inniúil go bhfuil bonn cirt leis an dhámhachtain dhíreach i ngeall ar** [...] imthosca eisceachtúla [...]. Ar na himthosca eisceachtúla sin, áireofar na cásanna seo a leanas:

- meastar nach bhfuil cáilíocht agus líon na dtairiscintí leordhóthanach chun luach ar airgead a áirithiú, nó

- **tá roinnt tairiscintí iomaíocha á reáchtáil cheana féin ag an údarás inniúil agus/nó ag údaráis inniúla eile a d'fhéadfadh tionchar a bheith acu ar líon agus ar cháilíocht na dtairiscintí is dócha a gheofar i gcás ina ndéanfar an Conradh a thairiscint ar bhonn iomaíoch, nó**

- is gá le hathruithe ar raon feidhme conartha seirbhíse poiblí amháin nó níos mó d'fhonn soláthar seirbhísí poiblí a bharrfheabhsú.

Déanfaidh an t-údarás inniúil cinneadh cuí-réasúnaithe a eisiúint agus cuirfidh sé an Coimisiún ar an eolas faoi gan mhoill mhíchuí.

[...] Ní bheidh ré na gconarthaí **a dhámhtar de bhun na míre seo** níos faide ná [7] mbliana.

Foilseofar na conarthaí a dhámhtar i gcomhréir leis an mír seo agus cosaint dhlisteanach ar fhaisnéis rúnda gnó agus leasanna tráchtála á gcur san áireamh."²²

²² D'fhéadfaí aithris a chur isteach chun na cásanna a chumhdaítear faoin bhforáil seo a shoiléiriú.

(0c) Cuirtear mír 3b seo a leanas leis:

"3b. Agus Airteagal 5(3) á chur i bhfeidhm, féadfaidh na húdaráis inniúla a chinneadh go gcuirfear an nós imeachta seo a leanas i bhfeidhm:

Féadfaidh na húdaráis inniúla an rún atá acu chun conradh seirbhíse poiblí d'iarnród a dhámhachtain a dhéanamh poiblí trí fhógra faisnéise a fhoilsiú in Iris Oifigiúil an Aontais Eorpaigh.

San fhógra faisnéise beidh tuairisc mhionsonraithe ar na seirbhísí a bheidh mar ábhar ag an gconradh a bhronnfar chomh maith le cineál agus fad an chonartha.

Féadfaidh oibreoirí a spéis a léiriú laistigh de thréimhse a leagfaidh an t-údarás inniúil síos nach lú í ná 60 lá tar éis an fógra faisnéise a fhoilsiú.

Más rud é, tar éis na tréimhse sin:

a) nach bhfuil ach oibreoir amháin tar éis spéis a léiriú páirt a ghlacadh sa nós imeachta chun an conradh seirbhíse poiblí a dhámhachtain agus

b) go bhfuil sé cruthaithe aige go cuí go mbeidh sé in ann an tseirbhís iompair a chur ar fáil go héifeachtach agus na hoibleagáidí arna mbunú sa chonradh seirbhíse poiblí á gcomhlíonadh aige, agus

c) nach cúngú saorga ar pharaiméadair an tsoláthair is cúis leis an easpa iomaíochta agus

d) nuair nach ann d'aon rogha réasúnta eile,

féadfaidh na húdaráis inniúla tús a chur le caibidlíocht leis an oibreoir d'fhonn an conradh a bhronnadh gan nós imeachta oscailte tairisceana a fhoilsiú arís."

- (a) Cuirtear an méid seo a leanas in ionad mhír 4:
- "4. Mura dtoirmeascfar sin leis an dlí náisiúnta, féadfaidh an t-údarás inniúil cinneadh a dhéanamh conarthaí seirbhíse poiblí a dhámhachtain go díreach:
- (a) i gcás ina meastar a meánluach bliantúil a bheith: níos lú ná EUR 1 000 000, nó níos lú ná EUR 7 500 000 i gcás conradh seirbhíse poiblí ina gcuimsítear seirbhísí iompair phoiblí do phaisinéirí d'iarnróid nó,
- (b) i gcás ina mbaineann siad le soláthar bliantúil de níos lú ná 300 000 ciliméadar de sheirbhísí poiblí iompair do phaisinéirí, nó níos lú ná 500 000 ciliméadar i gcás conradh seirbhíse poiblí ina gcuimsítear seirbhísí iompair phoiblí do phaisinéirí d'iarnróid.²³
- I gcás conradh seirbhíse poiblí arna dhámhachtain go díreach d'fhiontar beag nó meánmhéide nach mó ná 23 an líon feithiclí bóthair a bheidh á n-úsáid aige, féadfar na tairseacha sin a árdú go dtí meánluach bliantúil a mheastar a bheith níos lú ná EUR 2 000 000 nó go soláthar bliantúil seirbhísí iompair phoiblí do phaisinéirí atá níos lú ná 600 000 ciliméadar."

²³ D'fhéadfaí aithris a chur isteach chun a shoiléiriú go mbeidh feidhm ag an tairseach is airde maidir le seirbhísí iompair phoiblí do phaisinéirí d'iarnród nó maidir le seirbhísí iompair phoiblí do phaisinéirí i gcás inarb ionann an t-iarnród agus níos mó ná 50 % de luach na seirbhíse atá faoi chaibidil.

(aa) Cuirtear mír 4a seo a leanas leis:

"4a. Mura dtoirmeascfar sin leis an dlí náisiúnta, féadfaidh an t-údarás inniúil cinneadh a dhéanamh conarthaí seirbhíse poiblí le haghaidh iompair phoiblí d'iarnród a dhámhachtain go díreach:

(a) (i) i gcás ina measann sé go bhfuil bonn cirt leis an dámhachtain dhíreach i ngeall ar shaintréithe struchtúracha agus geografacha ábhartha an mhargaidh agus an líonra lena mbaineann, go háirithe a méid, a saintréithe éilimh, castacht an líonra, **leithlisiú teicniúil agus geografach an líonra sin**, agus na seirbhísí a chumhdaítear leis an gconradh, agus

(ii) i gcás ina ndéanfaí leis an gconradh sin feabhas a chur ar cháilíocht na seirbhísí agus/nó ar an gcost-éifeachtúlacht le hais an chonartha seirbhíse poiblí a dhámhadh roimhe sin.

Ar an mbonn sin, déanfaidh an t-údarás inniúil cinneadh cuí-réasúnaithe a eisiúint agus cuirfidh sé an Coimisiún ar an eolas faoi gan mhoill mhí-chuí.

Maidir le Ballstáit inar lú, ar theacht i bhfeidhm an Rialacháin seo, ná 23 000 000 ciliméadar traenach an t-uasmhéid bliantúil agus nach bhfuil ach an t-aon údarás inniúil amháin acu ar an leibhéal náisiúnta agus nach bhfuil ach an t-aon chonradh seirbhíse poiblí amháin acu lena gcumhdaítear an líonra ina iomláine, measfar go gcomhlíonann siad na coinníollacha i bpointe (i). I gcás ina gcinnfidh na Ballstáit sin conradh seirbhíse poiblí a dhámhachtain go díreach, cuirfidh siad an Coimisiún ar an eolas faoi. Féadfaidh an Ríocht Aontaithe cinneadh a dhéanamh an fhomhír seo a chur i bhfeidhm maidir le Tuaisceart Éireann.

I gcás ina gcinnfidh an t-údarás inniúil conradh seirbhíse poiblí a dhámhachtain go díreach, déanfaidh sé ceanglais feidhmíochta a bheidh intomhaiste, trédhearcach agus infhíoraithe a shainiú. Déanfar na ceanglais sin a áireamh sa chonradh.

Leis na ceanglais feidhmíochta, cumhdófar ach go háirithe poncúlacht na seirbhísí, minicíocht na n-oibríochtaí traenach, caighdeán an rothstoic agus cumas iompair do phaisinéirí.

Áireofar leis an gconradh táscairí sonracha feidhmíochta lena gceadófar don údarás inniúil measúnú tréimhsiúil a dhéanamh agus sonrófar bearta éifeachtacha agus díspreagthacha le forchur i gcás ina dteipfidh ar an ngnóthas iarnróid na ceanglais feidhmíochta a chomhlíonadh.

Déanfaidh an t-údarás inniúil a mheas go tréimhsiúil cibé an bhfuil na spriocanna bainte amach ag an ngnóthas iarnróid chun na ceanglais feidhmíochta a chomhlíonadh mar a leagtar amach sa chonradh iad agus cuirfidh sé sin ar fáil go poiblí. Glacfaidh sé bearta iomchuí agus tráthúla, lena n-áireofar pionóis chonarthaacha éifeachtacha agus dhíspreagthacha i gcás nach mbainfear amach na feabhsaithe is gá i gcaighdeán na seirbhísí agus/nó sa chost-éifeachtúlacht. Ag am ar bith, féadfaidh an t-údarás inniúil an conradh a dámhadh faoin bhforáil seo a fhionraí, go hiomlán nó go páirteach, nó deireadh a chur leis i gcás ina dteipfidh ar an oibreoir na ceanglais feidhmíochta a chomhlíonadh.

(b) i gcás ina mbaineann siad le hoibriú seirbhísí iarnróid do phaisinéirí amháin agus ina ndéanann an t-oibreoir atá i gceist bainistiú ag an am céanna ar an mbonneagar iarnróid uile nó ar an gcuid is mó den bhonneagar sin ar a gcuirtear na seirbhísí ar fáil, atá eisithe ó chur i bhfeidhm Airteagal 7, 7a, 7b, 7c, 7d, 8, 13 agus Chaibidil IV de Threoir 2012/34/AE lena mbunaítear limistéar Eorpach aonair iarnróid i gcomhréir le hAirteagal 2(3)(a) nó (b) de Threoir 2012/34/AE.

De mhaolú ar Airteagal 4(3), ní rachaidh ré na gconarthaí a dhámhfar go díreach de bhun na míre seo thar 10 mbliana, seachas sna cásanna ina mbeidh feidhm ag Airteagal 4(4).

Foilseofar na conarthaí a dhámhfar i gcomhréir leis an mír seo agus cosaint dhlisteanach ar fhaisnéis rúnda gnó agus leasanna tráchtála á gcur san áireamh."

(ab) Cuirtear an méid seo a leanas in ionad mhír 5:

"5. I gcás ina mbrisfear seirbhísí nó ina mbeidh baol láithreach ann go dtarlódh briseadh, féadfaidh an t-údarás inniúil bearta éigeandála a dhéanamh. Beidh an beart éigeandála sin i bhfoirm dámhachtana díri nó comhaontaithe fhoirmiúil chun síneadh a chur le Conradh Seirbhíse Poiblí nó i bhfoirm ceanglais oibleagáidí seirbhíse poiblí áirithe a sholáthar. Beidh sé de cheart ag an oibreoir seirbhíse poiblí achomharc a dhéanamh i gcoinne an chinnidh lena bhforchuirfear soláthar oibleagáidí seirbhíse poiblí áirithe. Ní rachaidh dámhachtain conartha seirbhíse poiblí ná síneadh le Conradh Seirbhíse Poiblí trí bheart éigeandála ná trí fhorchur conartha den sórt sin thar dhá bhliain."

(b) Cuirtear isteach mír 3a seo a leanas:

"6a. Féadfaidh údarás inniúla cinneadh a dhéanamh go mbronnfar conarthaí d'iompar poiblí paisinéirí d'iarnród a chumhdóidh codanna den ghréasán céanna nó pacáiste bealaí ar ghnóthais dhifriúla iarnróid, ar mhaithe le hiomaíocht a mhéadú i measc gnóthas iarnróid. Chuige sin, féadfaidh na húdaráis inniúla cinneadh a dhéanamh sula seolfar an nós imeachta tairisceana teorainn a chur le líon na gconarthaí a bhronnfar ar aon ghnóthas iarnróid amháin."

5. Cuirtear isteach Airteagal **5a[...]** seo a leanas:

"Airteagal **5a[...]**

Rothstoc iarnróid

I bhfianaise nós imeachta iomaíoch chun conarthaí a bhronnadh déanfaidh na húdaráis inniúla a mheas cibé an bhfuil gá le bearta chun rochtain éifeachtach agus neamh-idirdhealaitheach ar rothstoc oiriúnach a áirithiú."²⁴

²⁴ D'fhéadfaí aithris a chur san áireamh d'fhonn a mhíniú gurb é is aidhm leis an bhforáil sin iomaíocht éifeachtach a áirithiú sa phróiseas tairisceana.

6. In Airteagal 6, cuirtear an méid seo a leanas in ionad mhír 1:

"1. Beidh gach cúiteamh a bhainfidh le riail ghinearálta nó le Conradh seirbhíse poiblí i gcomhréir le hAirteagal 4, is cuma conas a dámhadh an Conradh. Beidh gach cúiteamh, cibé cineál é, a bhainfidh le Conradh seirbhíse poiblí nach mbronntar go díreach i gcomhréir le hAirteagal 5(1) nó (3) nó nach mbaineann le riail ghinearálta i gcomhréir leis na forálacha a leagtar síos san Iarscríbhinn freisin."

7. Leasaítear Airteagal 7 mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad mhír 1:

"1. Uair amháin sa bhliain, poibleoidh gach údarás inniúil tuarascáil chomhiomlán maidir leis na hoibleagáidí seirbhíse poiblí a bhfuil sé freagrach astu, dáta tosaigh agus fad na gconarthaí seirbhíse poiblí, na hoibreoirí seirbhíse poiblí a roghnaíodh agus na híocaíochtaí cúitimh agus na cearta eisiacha a bronnadh ar na hoibreoirí seirbhíse poiblí sin trí bhíthin aisíocaíochta. Déanfar idirdhealú sa tuarascáil idir iompar de bhus agus iompar d'iarnród agus is féidir faireachán agus measúnú ar fheidhmiú, ar cháilíocht agus ar mhaoiniú an ghréasáin iompair phoiblí a dhéanamh inti agus, i gcás inarb iomchuí, cuirfear faisnéis ar fáil inti maidir le cineál agus le réim aon chearta eisiacha a dheonaítear. Éascóidh na Ballstáit rochtain lárnach ar na tuarascálacha seo, mar shampla le tairseach comhchoiteann gréasáin."

(b) I mír 2, cuirtear an pointe seo a leanas isteach:

"(d) an dáta tosaigh agus an fad a bheartaítear don chonradh seirbhíse poiblí."

8. Leasaítear Airteagal 8 mar a leanas:

(a) Cuirtear an méid seo a leanas in ionad na chéad abairte de mhír 2:

"2. Gan dochar do mhír 3,

- i) Beidh feidhm ag Airteagal 5 maidir le dámhachtain na gconarthaí seirbhíse poiblí do sheirbhísí iompair paisinéirí de bhóthar agus de mhodhanna rianbhunaithe seachas iompar d'iarnród ar nós mearchóras iarnróid cathrach nó trambhealaí ón 3 Nollaig 2019 ar aghaidh.
- ii) Beidh feidhm ag Airteagal 5, cé is moite de mhír 4a, maidir le seirbhísí iompair do phaisinéirí d'iarnród amhail ón 3 Nollaig 2019.
- iii) Beidh feidhm ag Airteagal 5(4a) maidir le seirbhísí iompair do phaisinéirí d'iarnród amhail ó 10 mbliana tar éis don Rialachán seo teacht i bhfeidhm.
- iv) Rachaidh Airteagal 5(6) agus Airteagal 7(3) as feidhm amhail ó 10 mbliana tar éis don Rialachán seo teacht i bhfeidhm.

Maidir le conarthaí seirbhíse poiblí do sheirbhísí iompair phoiblí do phaisinéirí d'iarnród a dhámhtar i gcomhréir le hAirteagal 5(6), féadfaidh siad leanúint ar aghaidh go dtí a ndáta éaga."

(b) Cuirtear isteach mír 2a seo a leanas:

"2a. Maidir le conarthaí seirbhíse poiblí do sheirbhísí iompair phoiblí do phaisinéirí d'iarnród a dámhadh ar bhonn nós imeachta nach nós imeachta iomaíoch cothrom é amhail ó dháta theacht i bhfeidhm an Rialacháin seo go dtí an 3 Nollaig 2019, féadfaidh siad leanúint ar aghaidh go dtí a ndáta éaga. De mhaolú ar Airteagal 4(3), ní rachaidh ré na gconarthaí sin thar 10 mbliana, seachas sna cásanna ina mbeidh feidhm ag Airteagal 4(4)."

(c) I mír 3, cuirtear an méid seo a leanas in ionad litir (d):

"(d) amhail ón 26 Iúil 2000 agus roimh [theacht i bhfeidhm an Rialacháin seo] ar bhonn nós imeachta nach nós imeachta iomaíoch cothrom tairisceana é".

Airteagal 2

Tiocfaidh an Rialachán seo i bhfeidhm an lá tar éis lá a fhoilsithe in *Iris Oifigiúil an Aontais Eorpaigh*.

Beidh an Rialachán seo ina cheangal go huile agus go hiomlán agus beidh sé infheidhme go díreach i ngach Ballstát.

Arna dhéanamh sa Bhruiséil,

Thar ceann Pharlaimint na hEorpa
An tUachtarán

Thar ceann na Comhairle
An tUachtarán
