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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	Position of the Council at first reading with a view to the adoption of a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings - Adopted by the Council on 17 October 2016

REGULATION (EU) 2016/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

repealing Regulation (EEC) No 1192/69 of the Council
on common rules for the normalisation
of the accounts of railway undertakings

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91 and 109 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C 327, 12.11.2013, p. 122.
2 OJ C 356, 5.12.2013, p. 92.
3 Position of the European Parliament of 26 February 2014 (not yet published in the Official Journal) and position of the Council at first reading of 17 October 2016 (not yet published in the Official Journal). Position of the European Parliament of … (not yet published in the Official Journal).

Whereas:

(1) Council Regulation (EEC) No 1192/69[1] allows Member States to compensate 40 enumerated railway undertakings for the payment of obligations which undertakings of other transport modes do not have to support. The correct application of the rules for normalisation results in the exemption of Member States from State aid notification obligations.

(2) A series of Union legal acts has been adopted opening up the rail freight and international rail passenger markets to competition and establishing, in the case of Directive 2012/34/EU of the European Parliament and of the Council[2], certain fundamental principles, which include: that railway undertakings are to be managed in accordance with the principles that apply to commercial companies; that entities responsible for the allocation of capacity and charging for rail infrastructure are to be separate from entities which operate rail services, and that there is to be a separation of accounts; that any railway undertaking licensed in accordance with Union criteria is to have access to railway infrastructure on a fair and non-discriminatory basis; and that infrastructure managers may benefit from State financing.

(3) Regulation (EEC) No 1192/69 is inconsistent and incompatible with legislative measures currently in force. In particular, in the context of a liberalised market, where railway undertakings compete directly with the enumerated railway undertakings, it is no longer appropriate to treat those two groups differently from one another.

[1] Regulation (EEC) No 1192/69 of the Council of 26 June 1969 on common rules for the normalisation of the accounts of railway undertakings (OJ L 156, 28.6.1969, p. 8).

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

(4) In order to eliminate inconsistencies in the Union legal order and with a view to contributing to simplification by eliminating a legal act which has become obsolete, it is therefore appropriate to repeal Regulation (EEC) No 1192/69.

(5) Member States may pay compensation for the costs of crossing facilities on the basis of Article 8 of Directive 2012/34/EU. They may, nevertheless, need time to amend their national law and administrative provisions to take account of the repeal of Regulation (EEC) No 1192/69. As a consequence, this repeal should not take immediate effect for cases covered by Annex IV to Regulation (EEC) No 1192/69,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1192/69 is repealed, with the exception of the provisions of that Regulation that apply to the normalisation of accounts for Class IV cases covered by Annex IV to that Regulation. Those provisions shall continue to apply until 31 December 2017.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*