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STATEMENT OF THE COUNCIL'S REASONS

Subject:	Position of the Council at first reading with a view to the adoption of a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure – Statement of the Council's reasons – Adopted by the Council on 17 October 2016

I. INTRODUCTION

1. On 30 January 2013, the Commission transmitted to the Council a proposal for a Directive of the European Parliament and of the Council amending Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area[1], as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure.

2. This proposal was presented as a part of the so-called Fourth Railway Package together with five other proposals. For the negotiations the proposals were handled in two groups, a technical pillar and a market pillar. This proposal is part of the market pillar.

3. The European Economic and Social Committee adopted its opinion on the proposal on 10 July 2013. The Committee of the Regions adopted its opinion on 8 October 2013.

4. The European Parliament adopted its opinion at first reading on 26 February 2014.

5. On 8 October 2015, the Council (Transport, Telecommunications and Energy) reached an agreement (the 'general approach')[2] on the proposal relating to market opening of domestic passenger services by rail and the governance of the sector.

6. On 19 April 2016, an agreement was reached with the European Parliament on a compromise text.

7. On 20 September 2016, the Council adopted a political agreement[3] on the compromise text.

8. Taking into account the agreements referred to above and following legal-linguistic revision, the Council adopted its position at first reading on 17 October 2016, in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union.

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1 OJ L 343, 14.12.2012, p. 32.
2 See 12777/15 TRANS 317 CODEC 1308.
3 See 11202/16 TRANS 299 CODEC 1059.

II. OBJECTIVE

9. The main objectives of the proposal are to improve the quality and efficiency of domestic rail passenger transport services and to remove any remaining legal obstacles to the completion of the Single European Railway Area.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A) General

10. The Council considers that further opening of the domestic rail passenger market should be pursued. However, where the economic equilibrium of contracts signed for public service obligations is at stake, it should be possible for the Member States to limit access. In addition, it should be possible for Member States that have borders with third countries to establish additional conditions for fair market access. Finally, the conditions regarding the manager of the rail infrastructure, notably regarding its independence, impartiality and financial transparency, should be proportional to the market situation and the infrastructure in use.

B) Other key policy issues

11. To avoid potentially varying interpretations and excessive administrative control by the regulatory bodies, the Council considers that the focus should be on the so-called essential functions when assessing the impartiality of an infrastructure manager. Furthermore, various models of organisation should be allowed as long as certain conditions are fulfilled.

12. Outsourcing of certain functions of the infrastructure manager should be allowed, but the infrastructure manager should maintain ultimate control of and responsibility for the operation, maintenance and renewal of its network.

13. Coordination and cooperation between infrastructure managers should be ensured whilst providing railway operators access to pertinent information. Exchange of information, monitoring of performance and analysis of other relevant questions on rail infrastructure should also take place between the Member States.

14. The Council is in favour of pursuing the establishment of high speed rail connections to provide an efficient and environment-friendly option for medium-distance travel. Special provisions for the access of high-speed passenger services to the Union rail infrastructure have therefore been developed.

15. Finally, information systems and through-ticketing practices should be strengthened, to facilitate more efficient multimodal and cross-border passenger transport.

IV. CONCLUSION

16. The Council's position at first reading reflects the compromise agreed between the Council and the European Parliament, with the support of the Commission.

17. This compromise was confirmed by a letter from the Chair of the European Parliament's Committee on Transport and Tourism addressed to the Chair of the Permanent Representatives Committee (Part 1) on 13 July 2016.

18. The position of the Council takes full account of the Commission proposal and the amendments proposed by the European Parliament at first reading. The Council therefore believes that its position at first reading fulfils all the main objectives of the proposal without imposing disproportionate costs to modify existing operational arrangements.