



Council of the
European Union

Brussels, 27 September 2022
(OR. en)

12796/22

LIMITE

TRANS 599
CODEC 1355

Interinstitutional File:
2021/0420(COD)

WORKING DOCUMENT

From: General Secretariat of the Council

To: Delegations

No. prev. doc.: ST 11019/22

No. Cion doc.: ST 15109/22 - COM(2021) 812 final

Subject: Proposal for a Regulation of the European Parliament and of the Council on Union guidelines for the development of the trans-European transport network, amending Regulation (EU) 2021/1153 and Regulation (EU) No 913/2010 and repealing Regulation (EU) 1315/2013
- Examination of a revised Presidency compromise on Article 65

Delegations will find attached a revised Presidency compromise on Article 65 of the above proposal with a view to a detailed examination at the meeting of the Working Party on Transport - Intermodal Questions and Networks on 30 September.

Changes compared to the previous version of the compromise (c.f. ST 11019/22) are highlighted in **bold and underlined** for additions and in ~~strikethrough~~ for deletions.

Article 65

Amendments to Regulation (EU) No 913/2010

Regulation (EU) No 913/2010 is amended as follows:

(1) ~~in Article 1, paragraph 1~~ is replaced by the following:

‘Article 1

Purpose and scope

1. This Regulation lays down rules for the organisation and management of international rail corridors for competitive rail freight with a view to the development of a European rail network for competitive freight. It sets out rules for the organisation, management and the indicative investment planning of freight corridors.

2. This Regulation shall apply to the management and use of railway infrastructure included in freight corridors, without prejudice to the responsibilities of the Member States regarding planning of and funding of such infrastructure.’

(2) in Article 2, paragraph 2 is replaced by the following:

‘2. In addition to the definitions referred to in paragraph 1:

- (a) ‘freight corridor’ means the freight railway lines, of the European Transport Corridor as defined in Article 11(1) of Regulation [... new TEN-T Regulation]* and of Annex III to that Regulation, including the railway infrastructure and its equipment and relevant rail services in accordance with **Directive 2012/34/EU** ~~Article 5 of Directive 2001/14/EC~~;
 - (b) ‘implementation plan’ means the document presenting the means, the strategy and the measures that the parties concerned intend to implement which are necessary and sufficient to organise and manage the freight corridor;
 - (c) ‘terminal’ means the installation provided along the freight corridor which has been specially arranged to allow either the loading and/or the unloading of goods onto/from freight trains, and the integration of rail freight services with road, maritime, river and air services, and either the forming or modification of the composition of freight trains; and, where necessary, performing border procedures at borders with European third countries;
 - (d) ‘European Coordinator’ means the Coordinator referred to in Article 51 of Regulation [... new TEN-T Regulation].
- * Regulation [...]

(3) the Title of Chapter II is replaced by the following:

‘~~ORGANISATION AND MANAGEMENT~~ **GOVERNANCE** OF THE FREIGHT CORRIDORS’

(4) Article 3 is replaced by the following:

Article 3

Organisation and ~~management~~ **governance** of freight corridors

1. ~~Organisation and management of freight corridors is subject to rules on governance, investment planning, allocation of railway infrastructure capacity and traffic management, in accordance with this Regulation.~~
2. From the date of entry into force of Regulation [... new TEN-T Regulation] or in the event of an amendment of the alignment of a European Transport Corridor pursuant to Article 11(3) of that Regulation, Member States and infrastructure managers responsible for the freight corridor part of that European Transport Corridor shall adjust the ~~organisation and management~~ **governance** of the freight corridor within 18 months¹ of the date of the change. **The executive board and the management board of the freight corridor shall adopt the measures necessary to adjust organisation and management of the corridor in accordance with Articles 9 to 19 to the new geographical alignment.**
3. **The executive board of a freight corridor may decide to address administrative, operational and interoperability aspects of passenger rail services on the corridor.**

(5) Articles 4 to 7 are deleted.

(6) Article 8 is amended as follows:

(a) in paragraph 1, the following sentence is added:

‘The executive board shall regularly assess the consistency between the general objectives and the objectives defined by the management board in accordance with Article 9(1), point (c).’

(b) paragraph 7 is replaced by the following:

¹ **Recital 30 would be amended as follows:**

As stated in the Sustainable and Smart Mobility Strategy, an integration of the Core Network Corridors and of the Rail Freight Corridors into ‘European Transport Corridors’ is needed to increase synergies between infrastructure planning and the operation of transport. In line with that objective, the Commission is encouraged to adopt a proposal, where appropriate, to revise the rules on rail freight capacity allocation currently embedded in Regulation No 913/2010 in timely manner to ensure smooth functioning of the freight transport on the Corridors. The European Transport Corridors should become the instrument for the development of sustainable and multimodal freight and passenger transport flows in Europe and for the development of interoperable high quality infrastructure and operational performance. As such, they should also be the tool to realise the vision of creating a highly competitive rail network across the Union.

‘7. The management board shall set up an advisory group made up of managers and owners of the terminals of the freight corridor including, where necessary, sea and inland waterway ports. This advisory group may issue an opinion on any proposal by the management board which has direct consequences for investment and the management of terminals. It may also issue own-initiative opinions. The management board shall take any of these opinions into account. In the event of disagreement between the management board and the advisory group, the latter may refer the matter to the executive board ~~and to the European Coordinator concerned by the freight corridor~~. The executive board ~~and the~~ **shall inform** European Coordinator concerned by the freight corridor ~~and~~ shall act as an intermediary **and issue an opinion on the matter in due time. The European Coordinator concerned may also issue an opinion on the matter in due time.** ~~and provide its opinion in due time.~~ The final decision however shall be taken by the management board.’

(c) in paragraph 8, the following sentence is added:

‘In the event of disagreement between the management board and the advisory group, the latter may refer the matter to the executive board, ~~and to the European Coordinator concerned by the freight corridor~~. The executive board **shall inform** ~~of~~ the European Coordinator **and the regulatory bodies referred to in Article 55 of Directive 2012/34,** concerned by the freight corridor, **The executive board** shall act as an intermediary, **and issue an** ~~and provide its opinion~~ **on the matter** in due time. **The European Coordinator concerned may also issue an opinion on the matter in due time.** The final decision shall be taken by the management board.’

(d) the following paragraph 10 is added:

‘10. The executive board and the management board shall cooperate with the European Coordinator concerned by the freight corridor to support the development of rail freight traffic along the corridor.’

(7) Article 9 is replaced by the following:

Article 9

Measures for developing the freight corridor

1. The management board shall draw up and publish an implementation plan at the latest six months before making the freight corridor operational. The management board shall consult the advisory groups referred to in Article 8(7) and 8(8) on the draft implementation plan. The management board shall submit the implementation plan for approval to the executive board.

This plan shall include:

- (a) a description of the characteristics of the freight corridor, including bottlenecks, and the programme of measures necessary to improve its organisation and management;
- (b) the essential elements of the study referred to in paragraph 3;
- (c) the objectives for the freight corridors, in particular in terms of performance of the freight corridor expressed as the quality of the service and the capacity of the freight corridor in accordance with the provisions of Article 19 of this Regulation, and, where relevant, quantitative or qualitative targets relating to these objectives. The objectives and the targets shall take into account the requirements set out in Article **12a of this** ~~18 of Regulation [... new TEN-T Regulation];~~

- (d) the measures to implement the provisions of Articles 12 to 19 and the measures to improve the performance of the freight corridor, based on the results of the assessment referred to in Article 19(3), with a view to achieve the objectives and targets referred to in point (c).
- (e) the views and assessment of the advisory groups referred to in Article 8(7) and 8(8) with respect to corridor development.
- (f) a summary of the cooperation and the results of the consultation referred to in Article 11, including the opinions of the advisory groups referred to in Articles 8(7) and 8(8) and a summary of the responses of other stakeholders.

When drawing up the implementation plan, the management board shall take into account the objectives and measures contained in the work plan of the European Coordinator, referred to in Article 53 of Regulation [... new TEN-T Regulation]. The implementation plan shall include a reference to the elements of the work plan which are relevant for rail freight traffic along the corridor.

The management board shall regularly review and adjust the targets referred to in point (c) and the measures referred to in point (d), based on the assessment referred to in Article 19(3) following the consultation of the advisory groups referred to in Article 8(7) and 8(8) and the European Coordinator.

2. The management board shall periodically, at least every four years, review the implementation plan taking into account progress made in its implementation, the rail freight market on the freight corridor and performance measured in accordance with the objectives referred to in point (c) of paragraph 1.
3. The management board shall carry out and periodically update a transport market study relating to the observed and expected changes in the traffic on the freight corridor, covering the different types of traffic, both regarding the transport of freight and the transport of passengers. This study shall also review, where necessary, the socio-economic costs and benefits stemming from the development of the freight corridor.
4. The implementation plan shall take into account the development of terminals, including the market and prospective analysis on multimodal freight terminals as well as the action plans of the Member States of the freight corridor, referred to in Article 35(3) and (4) of Regulation [... new TEN-T Regulation].
5. The management board shall, as appropriate, take measures to cooperate with regional and/or local administrations in respect of the implementation plan.?

(8) Article 11 is replaced by the following:

Article 11

Investment planning

1. The executive board and the management board of a freight corridor shall cooperate with the European Coordinator concerned by the freight corridor in relation to the infrastructure and investments needs resulting from the rail freight traffic to support the drawing up of the work plan referred to in Article 53 of Regulation (EU) [... new TEN-T Regulation].
2. The management board shall consult the advisory groups referred to in Articles 8(7) and 8(8) on infrastructure development and investment needs. The consultation shall be based on an adequate, up-to-date documentation of the infrastructure planning at corridor and national level. Opinions by the advisory groups on investment needs shall be **substantiated supported with sufficient justification.** by proper market analysis. The executive board shall ensure adequate coordination between these consultation activities and the coordination mechanisms at national level as defined in Article 7e of Directive 2012/34/EU.
3. The cooperation and the consultation shall address in particular:
 - (a) capacity needs of rail freight transport relevant for infrastructure and investment planning, **in particular as regards freight trains with a length of no less than 740 m,** taking into account the need for capacity pursuant to Article 14(2) and any infrastructure declared congested pursuant to Article 47 of Directive 2012/34/EU;
 - (b) TEN-T infrastructure requirements relevant for rail freight transport as defined in Chapters II and III of Regulation (EU) [... new TEN-T Regulation], ~~in particular as regards the capacity needs for freight trains with a length of no less than 740 m;~~
 - (c) need for targeted investments to remove local bottlenecks, such as connecting loops, improvements to nodes and last-mile infrastructure or technical equipment enhancing operational performance.'

(8a) A new Article 12a is added:

Article 12a

Operational requirements for the Rail Freight -Corridors

1. **Member States shall make all the possible efforts to ensure that, by 31 December 2030, the quality of services provided by infrastructure managers to railway undertakings and technical and operational requirements for infrastructure use do not prevent the operational performance of rail freight services along the freight corridors from meeting the following target values:**
 - (a) **for each internal Union cross-border section, except the ones where a change of track gauge takes place, the dwelling time of all freight trains crossing the border does not exceed 15 minutes on average. Dwelling time of a train on a cross-border section means the total additional transit time that can be attributed to the existence of the border crossing, irrespective of procedures or considerations of infrastructural, operational, technical and administrative nature. Dwelling time does not include the time that cannot be attributed to the border crossing, such as operational procedures carried out in facilities located in the proximity of the border crossing but not intrinsically related to it;**

(b) at least 90% of the freight trains crossing at least one border of a freight corridor arrive at their destination, or at the external Union border if their destination is outside the Union, at their scheduled time or with a delay of less than 30 minutes by reasons that are attributable to the infrastructure manager(s).

2. Member States shall modify, as appropriate, contractual agreements referred to in Article 30 of Directive 2012/34/EU and take appropriate measures in accordance this Regulation to meet the target values set out in points (a) and (b) of the first paragraph.'

(9) Article 19 is replaced by the following:

'Article 19

Quality of service on the freight corridor

1. The management board of the freight corridor shall promote compatibility between the performance schemes along the freight corridor, as referred to in Article 35 of Directive 2012/34/EU.
2. The management board shall monitor the performance of services provided by the infrastructure managers to applicants in fulfilment of their essential functions, as far as in the scope of Articles 12 to 18, and of rail freight services on the freight corridor. Performance monitoring shall be carried out in qualitative and quantitative terms, where appropriate based on performance indicators relating to the objectives and targets of the freight corridor defined in accordance with point (c) of Article 9(1). The management board shall consult the advisory groups referred to in Article 8(7) and 8(8) and the European Coordinator on relevant performance indicators.
3. The management board shall assess the results of the performance monitoring with respect to the objectives and targets defined in accordance with point (c) of Article 9(1) and to the operational requirements referred to in Article ~~12a. 18~~ of Regulation [... new TEN-T Regulation].
4. The management board shall prepare and publish an annual report presenting the results of the activities carried out pursuant to this Article. It shall present the views and assessment of performance by the advisory groups referred to in Article 8(7) and 8(8) in a dedicated section of the report. The management board shall submit the annual report for approval to the executive board.'

(9a) Article 21 is deleted.

(10) Articles 22 and 23 are replaced by the following:

Article 22

Monitoring implementation

Every four years from the time of the establishment of a freight corridor, the executive board referred to in Article 8(1) shall present to the Commission the results of the implementation plan for that corridor. The Commission shall analyse those results and notify the Committee referred to in Article ~~21~~ **62 of Directive 2012/34** of its analysis.'

Article 23

Report

The Commission shall periodically examine the application of this Regulation. It shall submit a report to the European Parliament and the Council, at the latest two years after entry into force of this Regulation and every four years thereafter.'

(11) the Annex to this Regulation is deleted.