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Subject: Proposal for a Regulation of the European Parliament and of the Council
on the use of railway infrastructure capacity in the single European railway
area, amending Directive 2012/34/EU and repealing Regulation (EU) No
913/2010
- Analysis of the final compromise text with a view to agreement
- Final compromise text

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on the use of railway infrastructure capacity in the single European railway area, amending
Directive 2012/34/EU and repealing Regulation (EU) No 913/2010**

(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 Article 91 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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

¹ OJ C-, *C/2024/891, 6.2.2024*, p.-

² OJ C-, *C/2024/1982, 18.3.2024*, p.-

(1) The Commission Communication ‘The European Green Deal’³ sets a climate neutrality objective to be achieved by the Union by 2050 as well as a clear objective to reduce net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels. ~~Both objectives are enshrined in Regulation (EU) 2021/1119 of the European Parliament and of the Council. The European Green Deal~~ calls for a 90% reduction in greenhouse gas emissions from transport, while working towards the zero-pollution ambition⁴ to reduce the health impacts of air pollutant emissions by more than 55% and the share of people chronically disturbed by transport noise by 30% by 2030. Transport represents around 25% of the Union’s total greenhouse gas emissions, and these have increased over recent years. The European Green Deal prioritises the shift onto rail and inland waterways of a substantial part of the 75% of inland freight carried today by road. Rail being a largely electrified and ~~energy efficient~~**energy-efficient** mode of transport, greater use of rail services should contribute to reducing transport’s emissions and energy consumption.

(2) The Communication on Sustainable and Smart Mobility Strategy⁵¹ sets out milestones to show the Union transport system’s path towards achieving the objectives of a sustainable, smart and resilient mobility. It envisages that rail freight traffic should increase by 50% by 2030 and double by 2050; traffic on high-speed rail should double by 2030 and triple by 2050 and scheduled collective travel under 500 km should be carbon-neutral by 2030 within the Union. To achieve these goals, rail transport ~~must~~**should** become more attractive in terms of affordability, reliability, and **accessibility**. **Rail transport** services **should also be** better adapted to the needs of travellers and freight shippers.

(2a) ***The underlying aim of this Regulation is to increase the utilisation of the rail infrastructure by making a more efficient use of the railway infrastructure through better planning and allocation processes, and improved cross-border coordination, and thereby contribute to an increase of rail services in line with the Union's***

³ Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions ‘The European Green Deal’, COM(2019)640 final of 11 December 2019.

⁴ Commission Communication ‘Pathway to a Healthy Planet for All EU Action Plan: “Towards Zero Pollution for Air, Water and Soil”’, COM(2021) 400 final of 12 May 2021.

⁵ ~~Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions ‘Sustainable and Smart Mobility Strategy – putting European transport on track for the future’, COM(2020) 789 final of 9 December 2020.~~

decarbonisation targets. However, further measures, beyond the scope of this Regulation, will be needed at all levels, to further enhance railway infrastructure capacity in order to meet the increased demand for rail capacity, both by passenger and freight services and increase the overall competitiveness of rail.

- (3) Directive 2012/34/EU of the European Parliament and of the Council⁶ lays down the rules applicable to the management and operation of railway infrastructure and the principles and procedures applicable to the allocation of railway infrastructure capacity for domestic and international rail services.
- (4) Regulation (EU) No 913/2010 of the European Parliament and of the Council⁷ provides for the establishment of rail freight corridors and one-stop shops to facilitate requests for infrastructure capacities for international rail freight services.
- (5) Rail infrastructure capacity **management and rail** and traffic management are crucial to the ~~well functioning~~ **good functioning** of the rail sector. The operation of rail transport services, **in particular cross-border rail services**, needs to be carefully planned and coordinated to allow trains with very different characteristics, such as speed and braking distance, to share safely the same tracks. Optimal **and harmonised** management of capacity creates more opportunities ~~for, and increases~~ **and increase** reliability of, rail services. **This** Regulation should provide infrastructure managers with sufficient flexibility for effective management of capacity while making sure that all ~~railway~~ **undertakings** ~~applicants~~ are treated ~~without discrimination~~ **in a transparent and non-discriminatory manner, ensuring fair competition**, in their access to the network.
- (6) Directive 2012/34/EU recognises the right of Member States not to apply the rules on rail infrastructure capacity allocation to certain parts of the rail network or to certain rail services, where such an exclusion from the scope of Union law would not affect the functioning of the single European railway area. These exclusions, **where strictly limited**

⁶ Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area ~~the rules applicable to the management of railway infrastructure~~ (OJ L 343 14.12.2012, p. 32).

⁷ Regulation (EU) No 913/2010 of the European Parliament and of the Council of 22 September 2010 concerning a European rail network for competitive freight (OJ L 276, 20.10.2010, p. 22).

and duly justified, should continue to apply and Member States should retain the right to request such exclusions in the future also in relation to this Regulation.

(6a) *The operation of the Channel Fixed Link is regulated in particular by the Treaty concerning the construction and operation by private concessionaires of a channel fixed link, between France and the United Kingdom of Great Britain and Northern Ireland, signed at Canterbury on 12 February 1986 ('Canterbury Treaty'), and the Concession Agreement between the Secretary of State for Transport, Le Ministre de l'Urbanisme du Logement et des Transports, The Channel Tunnel Group Limited and France-Manche S.A. ('Concession Agreement'). In accordance with that Treaty and that Concession Agreement, the concessionaires are to manage the infrastructure and to operate a shuttle service for road vehicles. Directive 2012/34/EU, with the exception of certain Articles, does not apply to undertakings the business of which is limited to providing solely shuttle services for road vehicles through the Channel tunnel or to transport operations in the form of shuttle services for road vehicles through that tunnel. Similarly, it is not appropriate to apply this Regulation to the management of infrastructure capacity for the operation of such services. Unless otherwise provided, this Regulation should apply to the management of infrastructure capacity for the operation of other services, such as passenger and freight trains.*

(6b) *When implementing this Regulation with respect to a portion of the Union rail network that is geographically isolated by the sea from the rest of the Union rail network, for which there is no concrete need to coordinate with other Member States or infrastructure managers managing infrastructure located in other Member States, and where capacity is continuously available with no relevant change expected to arise in the short or mid-term, Member States and infrastructure managers should be able to follow a pragmatic and proportionate approach in order to avoid disproportionate costs and administrative burden, while abiding with the obligations laid down in this Regulation.*

(6c) *This Regulation should not prevent Member States from adopting measures necessary to safeguard essential security or defence interests and to ensure that military have sufficient access to railway infrastructure.*

(6d) *Transport infrastructure is the backbone of the economy and society as a whole. Some rail infrastructure is critical to ensure the good functioning of vital societal functions*

and has a strategic significance for national security. In certain cases, granting capacity rights to an applicant could compromise public security or public order in the Union, including at Member State level, for example where a railway undertaking intends to transport on the railway infrastructure of a Member States dangerous goods or weapons having illegally entered the Union. In order to guarantee smooth, safe and secure rail transport traffic and to ensure the protection of their rail transport infrastructure, Member States should be allowed to require infrastructure managers to refuse to grant, or to withdraw, capacity rights to an applicant where the access to their infrastructure presents a risk for public order or public security, including to national security and defence. Any such decision should be duly justified and strictly necessary and proportionate to the objective pursued, taking also into account the impacts of that decision on competition and on the continuity of the supply chains, in particular for the supply of critical inputs, and where the requested capacity right constitutes a multi-network capacity right. When assessing the risk for public security or public order, the Member State concerned may take into account, among others, the fact that the applicant is subject to restrictive measures adopted by the Union and the reasons for adopting such measures, that it is owned or effectively controlled by, or acts on behalf or at the direction of, a person or an entity subject to restrictive measures adopted by the Union, or that the applicant or that person or entity is engaged in illegal activities or in activities facilitating the development of a third country's military capabilities presenting a threat to the Member State's national security. Such decision should be regularly reviewed by the Member State, in particular by assessing regularly whether it continues to be justified and proportionate. The Member State should inform the Commission, the regulatory body and, for multi-network capacity rights, the other Member States concerned of the decision adopted and the reasons thereof and should coordinate with those other Member States in case those latter raise concerns with the decision adopted. In case the concern raised by a Member State is not resolved through coordination, the concerned Member State may request a recommendation from the Commission on the decision adopted by another Member State.

(6e) *Member States should have the right to provide the infrastructure manager with strategic guidance, to ensure that the planning and use of rail capacity is consistent with their general objectives and policy orientations. In particular, Member States should be able to require that the infrastructure managers implement specific timetable designs*

such as integrated clock-face timetables; reserve minimum volumes of capacity for certain types of traffic; and reflect national circumstances and policy priorities in the parameters of the methodology for capacity partitioning and conflict resolution. When doing so, Member States should respect the operational responsibilities of the infrastructure managers and make sure that they retain a sufficient operational margin to fulfil all their tasks and responsibilities set out in Article 2(3).

(6f) *As infrastructure managers might be required to apply a specific timetable design, a multi-network train service might be subjected to different timetable designs. Not only, but also taking this into account, Member States in charge of the infrastructure managers allocating capacity rights for a multi-network train service subject to different timetable designs should coordinate to ensure consistency between their strategic guidance and national requirements. In addition, as different practises for timetable planning are used in Member States, these practises require increased coordination also between infrastructure managers across borders, in particular when infrastructure managers are required to pre-plan capacity by using clock-face timetables.*

(7) The rules and procedures on the management of rail infrastructure capacity should reflect better *consider and satisfy* the needs of all rail market segments *in a non-discriminatory way*. They should in particular take into account the necessity of long-term stability of available capacity for passenger services, *including for services operated under public service obligations*, and of short-term flexibility for freight traffic to respond to market demand. Therefore, the process of managing capacity should no longer have a predominantly annual focus; but be arranged in three subsequent phases of strategic capacity planning; rail service scheduling and capacity allocation; and adaptation and rescheduling of capacity. The introduction of better defined and structured phases that provide for the possibility of long-term planning and short-term adaptation in capacity management, would particularly benefit services that are less easy to plan in advance or are more complex to arrange, such as freight trains and cross-border passenger trains, *including night trains*.

(8) An increasing portion of the Union rail network is either congested or close to congested and cannot accommodate the needs for rail infrastructure capacity of all applicants and support further growth in the volume of rail transport. Infrastructure development and digitalisation, in compliance with the technical specification for interoperability developed

under Directive (EU) 2016/797 of the European Parliament and of the Council, in particular the European Rail Traffic Management System ('ERTMS'), is expected to result in an increase of available capacity in the medium to long term.- Nevertheless, infrastructure managers ~~will be required to assign priorities~~*are unlikely to be able to satisfy all capacity requests* for the use of ~~highly utilised or~~ congested sections. Without prejudice to general principles on priority set out by Member States in the framework for the allocation of infrastructure capacity, infrastructure managers ~~and~~ should take decisions on priorities using transparent and harmonised methodologies which clarify how social, economic and environmental factors have been taken into account and affect their decision*rely on sound planning to anticipate needs, provide early indications to applicants, and facilitate allocation of capacity.*

- (8a) *In order to ensure optimum use of rail infrastructure capacity, socioeconomic, operational and environmental criteria should be taken into account during the planning and allocation process, in particular when assessing alternative partitioning options on an element of infrastructure that is highly utilised or congested and for conflict resolution purposes. Especially for applicants requesting capacity in different Member States, it would be beneficial that infrastructure managers use a common method and a transparent set of criteria which clarify how these factors have been taken into account and have affected the decisions taken.*
- (8b) *ENIM should provide guidance on how to establish a common objective, transparent and non-discriminatory methodology, based on socio-economic, operational and environmental criteria for partitioning and allocating capacity. As this is a new methodology for deciding on partitioning or conflict resolution and it will be important to set the values of the parameters at the correct level, the application of the operational, socio-economic and environmental criteria should be tested and calibrated by ENIM before being applied.*
- (8c) *The infrastructure manager shall, where relevant, adjust the standard parameter values to take into account local or national circumstances based on accepted approaches and empirical evidence.*
- (9) The strategic planning of capacity *by infrastructure managers* should improve the utilisation of rail infrastructure by anticipating demand for rail services, *including by*

analysing expected transport market developments, and taking into account planned infrastructure development, renewal and maintenance. It should ensure that rail infrastructure capacity is allocated in a way that maximises the value of rail services for society. Infrastructure managers should ensure that strategic planning provides progressively increasing level of details about available capacity, *taking into account the feedback from operational stakeholders*, and that it is the basis for the capacity allocation.

- (10) To ensure that capacity is available for allocation for different rail market segments and in particular for freight and cross-border rail services, infrastructure managers should be allowed to pre-plan the use of capacity on congested or highly utilised ~~sections~~*infrastructure* of the rail network and to extend such planning to other sections of the network if deemed necessary. This pre-planning of capacity should take into account the different methods for capacity allocation and the characteristics of different rail market segments. It should allow for better utilisation of rail infrastructure by grouping trains with similar performance characteristics in the capacity allocation phase.
- (11) When allocating capacity, infrastructure managers should adhere to ~~the~~*their* strategic ~~plans~~*planning* for the supply of capacity ~~and~~*while* at the same time ~~ensure~~*ensuring* that capacity is allocated in accordance with market demand *and* in a fair and non-discriminatory way. For that purpose, some capacity requests *inconsistent with the capacity supply plan* may be refused ~~and the plan for the supply of~~ *or given lower priority in the allocation phase. The capacity must be regularly* ~~supply plan should be continuously~~ updated to reflect the ~~actual demand~~*available capacity*.
- (12) Different rail market segments have different abilities to anticipate their rail infrastructure capacity needs. Some freight service providers, in particular, may not be able to identify their capacity needs in time to be included in the working timetable, ~~that~~*which* is in the annual plan for train and rolling-stock movement, and may not fit in its annual schedule. Therefore, infrastructure managers should be able to offer capacity of sufficient quality and quantity also for rail services that have unstable demand, are organised on relatively short notice, include more than a single train run, and may run repeatedly for a period of time that may not coincide with the duration of the working timetable period. *For this purpose, it should be possible to reserve capacity for train paths that can then be allocated at short notice.*

(13) Applicants for rail infrastructure capacity should be able to plan and request rail infrastructure capacity on an annual basis through the working timetable. Applicants should also be able to request rail infrastructure capacity with greater advance for stable, multi-annual rail services through framework agreements. Finally, applicants should be able to request capacity close to the time of operation for individual trains through ad hoc capacity requests or for repeated train services through rolling planning requests. *Since rolling planning is particularly convenient for rail freight services, given their characteristics, allocation of capacity through the rolling planning process should concern at least rail freight services.*

(14) A significant share of rail freight transport is long-distance and requires cross-border coordination of infrastructure managers. The policy goal of increasing rail traffic also relies on growing cross-border passenger services. To facilitate and promote an increasing cross-border traffic in the single European railway area, it is necessary to ensure greater consistency and harmonisation of the rules and procedures on the management of rail infrastructure capacity, *while relying on the sector's experience and expertise for their definition*. Accordingly, the role of the ~~European Network of Infrastructure Manager~~ ENIM should be strengthened ~~with a view to~~ by entrusting it with the development of guidelines ~~for the harmonised~~ to enable the uniform implementation of this Regulation ~~on~~'s procedures and methodologies for the management of rail infrastructure capacity and ~~with~~ the active coordination of cross-border capacity and traffic. In particular, ~~the European Network of Infrastructure Managers~~ ENIM should develop European frameworks for capacity management, for the coordination of cross-border traffic management, disruption management and crisis management, and for performance review. *Railway undertakings, applicants and other operational stakeholders should be consulted in the development of these European frameworks.*

(15) The European frameworks developed by ~~framework for capacity management~~, the European Network of Infrastructure Manager ~~framework for the coordination of cross-border traffic management, disruption management and crisis management and the European framework for performance review developed by ENIM~~ should provide guidelines *setting out common tools, methodologies and procedural arrangements, that enable the* ~~that~~ infrastructure manager ~~managers~~' uniform implementation of this regulation across the Single European Rail Area, relating to the management of rail capacity, coordination of cross-border traffic, management of traffic disruption and

crisis situations as well as performance review. While those frameworks and elements contained therein should make the utmost efforts to follow, while retaining be non-binding and infrastructure managers should retain responsibility for their operational decisions, infrastructure managers are nevertheless expected to follow the frameworks unless specific circumstances justify departing from them. In such cases, infrastructure managers should act in accordance with the principle ‘comply or explain’ and should motivate the reason for any deviation from the those frameworks developed by European Network of Infrastructure Manager. This approach is considered allows to strike the balance between the needs of coordination and application of harmonised uniform approaches in the single European railway area, and the need for adapting procedures and methodologies to the specific circumstances of given geographical areas. After five years of Recognising the possibility that ENIM might not find an agreement on the frameworks for common tools, methodologies and procedural arrangements and fails to develop the European frameworks, as well as the risk that, in the event of agreement, the frameworks are inadequate to meet their intended objectives or extensive deviations from their application undermine the uniform implementation of this Regulation, the Commission should assess whether the state of convergence of procedures and, in these cases, adopt implementing acts setting out binding rules on common tools, methodologies and the effectiveness of the coordination process between infrastructure managers, as well as the general progress towards the establishment of the single European railway area, warrant the introduction of secondary legislation to replace elements the procedural arrangements necessary for the uniform implementation of these European frameworks developed by the European Network of Infrastructure Manager, or their elements.

- (15a) *ENIM should designate a Network Coordinator to carry out support and operational tasks. When appointing the Network Coordinator, ENIM should consider a non-profit association with experience and involvement in improving the management of rail infrastructure capacity.*
- (16) The rules on management of cross-border rail traffic under normal conditions and in the case of disturbances should promote smooth, resilient and seamless operation of rail transport services. They should provide for a system of structured coordination between infrastructure managers and other stakeholders.

(17) The operation of railway infrastructure not only requires close cooperation between infrastructure managers, but also a strong interaction with railway undertakings and other stakeholders directly involved in rail and multimodal transport and logistic operations. Therefore, it is necessary to provide for structured ~~coordination~~**consultation** between infrastructure managers and other stakeholders. *The ERP should be the platform that can handle this structured consultation as it is expected to have a representation of all stakeholders involved in rail transport services including but not limited to railway undertakings, operators of service facilities or operators of multimodal transport terminals. ERP should be able to provide ENIM with its opinions during the development of the European Frameworks and give concrete experiences and practical suggestions for specific challenges, and help to further improve the functioning of the European rail transport services.*

(18) Reliability of rail services is ~~one and knowing well in advance when the services can run are some~~ of the aspects most valued by railway customers **and applicants**. Reliability of schedules is also a critical aspect for the smooth functioning of the rail system, where there are strong interactions between services and network externalities. For that reason, deviations from the schedule should be kept to the minimum. ~~Additionally, and~~ a system of adequate incentives should be introduced to promote the fulfilment of commitments by infrastructure managers, railway undertakings and other relevant stakeholders. ~~These incentives should be both of economic and non-economic nature.~~

(18a) *This Regulation should set up a system of penalties to be paid where a party, either the infrastructure manager or the applicant, does not fulfil its commitments with respect to an allocated capacity right. The levels of the penalty due should be effective, proportionate, dissuasive and non-discriminatory in order to ensure the respect of the planned use of capacity. The levels of the penalty should be approved by the regulatory body. The infrastructure manager could use the track access charges paid in the rail network as a basis for proposing the level of the penalties. The modulation of the penalty should take into account several factors, including the timing of the notification of the change, the quality of the alternative capacity provided in terms of additional distance or timing, technical characteristics and other relevant aspects, or whether the capacity can be re-allocated and used by another applicant. The applied modulation should be low when the quality of the alternative is high or when the capacity can be re-allocated. The applied modulation should be higher when the change is requested shortly before the*

time of the use of the capacity right or when the quality is too low compared to the initial allocated capacity right. Infrastructure managers in Member States that do not have the euro as their currency should provide for levels of penalty in their currency that correspond to the levels determined in this Regulation in euro on the date of its entry into force. Those infrastructure managers are invited to regularly review the levels of penalty also with regard to the development of the exchange rate. This system of penalties should aim to expedite disputes and reduce litigation related to non-compliance with allocated capacity rights, and to provide certainty, legal security, predictability and transparency to both infrastructure managers and applicants with regard to their commitments in relation to allocated capacity rights.

(19) Continuous monitoring of the quality of rail infrastructure *services and of rail* and transport services is a precondition for improving the performance of these services. *While infrastructure managers should monitor and benchmark the performance of rail infrastructure services and rail transport services at national level, ENIM should monitor the performance at a European level.* It is therefore necessary to establish a transparent and objective system of indicators that provides feedback on aspects of performance that are relevant for the different operational stakeholders and for the end customers of rail transport services. The main function of that system should focus on monitoring the fulfilment of commitments made by the operational stakeholders and progress in performance over time while taking into account different circumstances and characteristics within the rail sector. For the establishment of such a system and the analysis of its output, *ENIM and* the Commission should be able to rely on independent experts in the form of *aan Advisory Performance Review Body Panel.* This body should be able to provide independent advice to *ENIM and* the Commission, *as well as to the operational stakeholders and the European coordinators* in all areas that influence the performance of rail services and infrastructure management. *The Advisory Performance Panel should also contribute to the performance review report.*

(20) To improve the performance of rail infrastructure services in the single European railway area, ~~the infrastructure managers, in close cooperation with the Commission, the ENIM should develop a European framework for~~ performance review Body and relevant stakeholders ~~should set up and implement a common framework for the review of performance.~~ This framework should ~~ensure~~ aim at ensuring that all EU infrastructure managers use common principles and tools, methodologies and procedural arrangements

for measuring performance through agreed indicators. The framework should allow for identifying performance deficiencies on the EU railway network. It should ~~ensure~~**aim at ensuring** that infrastructure managers set performance objectives in a way that takes into account the specificities of the network they manage, but at the same time ensures coherency in identifying the most relevant performance deficiencies. The framework should allow infrastructure managers to cooperate at EU level in identifying measures to address performance deficiencies and to keep track of their impact. ~~Infrastructure managers, working together in the European Network for Infrastructure Managers and taking into account the opinion of the Performance Review Body and the Commission, ENIM~~ should review this framework regularly to ensure that it is fit for purpose.

(21) To ensure an effective EU framework for the coordination of rail infrastructure managers ~~at EU level, ENIM, the European Network of Infrastructure Managers, established by Directive 2012/34/EU~~, should become more operational. It should include decision-making mechanisms, which allow EU rail infrastructure managers to effectively coordinate on the strategic planning of rail infrastructure capacity.

(21a) *All Member States' infrastructure managers, which are responsible for lines that form part of the core and extended core TEN-T network, should be members of ENIM. Other infrastructure managers of Member States, that are included in strategic capacity management for lines outside the core and extended core TEN-T network, should also be able to participate in the deliberations of ENIM. Other infrastructure managers may be invited to participate in the works of ENIM as observers, without voting rights. Moreover, it is in the interest of the Union to allow for the participation in ENIM of infrastructure managers responsible for lines on the core or extended core TEN-T network of States members of the European Free Trade Association (EFTA) and of South East European Parties to the Treaty establishing the Transport Community signed by the Union in accordance with Council Decision (EU) 2017/1937, provided that those States or parties apply this Regulation pursuant to an international agreement concluded with the Union. The modalities of their participation in ENIM should be determined under the agreement those States concluded with the Union. Those States and parties are closely associated to the Union in the transport sector. Moreover, due to their geographical location, most of them have important rail connections with the*

Member States or have transit traffic between two or several Member States. Therefore, their contribution to ENIM work is important.

(22) The rail regulatory bodies should cooperate at Union level to ensure coherent application of the regulatory framework and consistent treatment of applicants across the single European railway area. They should do so through the ~~European Network of Rail Regulatory Bodies~~**ENRRB**, with a view to develop common practices for making the decisions for which they are empowered under this Regulation. For that purpose, the ~~European Network of Rail Regulatory Bodies~~**ENRRB** should perform coordination tasks and **may** adopt non-binding recommendations, *opinions or reports in relation to cross-border rail services and performance of rail infrastructure services and rail transport services. The recommendations and opinions, which adopted by the ENRRB should promote national decisions that support the harmonised procedures described in the European frameworks and* should not affect the competences of the rail regulatory bodies or those of the infrastructure managers.

(23) Efficient management of rail capacity and traffic requires exchange of data and information between infrastructure managers, applicants and other operational stakeholders. This exchange can be considerably more effective and efficient with the support of interoperable digital tools and, where possible, automation. Specifications for interoperability should therefore be implemented as a matter of priority and further developed to keep up with technological developments and the new processes put forward in this Regulation. *As the European system authority for telematics applications, ERA should be involved in the development and implementation of the digital tools referred to in Article 62 of this Regulation to ensure that they are compliant with the TSI for telematics applications as defined in Directive (EU)2016/797 and in accordance with Article 23 of Regulation (EU) 2016/796.*

(24) Infrastructure managers should ensure alignment, in particular regarding digitalisation, with the work of the Europe's Rail Joint Undertaking established in Title IV of Council Regulation (EU) 2021/2085, ~~with respect to the Master Plan referred to in Article 86(5) and through the System Pillar referred to in Article 85(2)(e), and through Steering Group and~~ the Deployment Group referred to *respectively in Articles 96 and in Article 97* of Regulation (EU) 2021/2085.

(25) It is necessary to provide the mechanism to set criteria, principles and procedures related to capacity management, to cooperation between rail stakeholders and to coordination at EU level, for infrastructure managers and in the area of regulatory supervision. This mechanism requires that infrastructure managers and rail regulatory bodies, in cooperation with relevant stakeholders develop and implement European frameworks and guidelines. Following an evaluation of the development and implementation of the European frameworks and where the voluntary application of sector guidelines fails to achieve the necessary level of regulatory coherence, the Commission should have the means to address such regulatory inadequacies through implementing or delegated acts, where appropriate.

(26) In order to ensure a smooth process of capacity and traffic management for international rail services, minimise cancellations of allocated capacity and interruptions in rail operations due to disruptions on the rail network and in order to take into account developments in the practices of infrastructure managers and the use of new methods of capacity allocation and information and communication technologies, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission. These powers should concern *certain elements of* the deliverables resulting from the strategic planning of infrastructure capacity; the schedule for the strategic capacity planning and the capacity allocation process; the ~~deadlines~~*durations* for changes to allocated capacity and the construction of alternative solutions for applicants; ~~the~~*certain elements related to* schedule for coordination, consultation and publication of capacity restrictions resulting from infrastructure works; the ~~definition~~*thresholds for capacity utilisation* of highly utilised and congested infrastructure ~~and the procedures and methods to calculate the degree of capacity utilisation; the criteria to identify and declare a network disruptions;~~; *the adjustment of the levels of penalty to the inflation and* the information to be provided to operational stakeholders; ~~and the areas~~ infrastructure managers should coordinate on and the specific arrangements for such coordination. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making⁸. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at

⁸ OJ L 123, 12.5.2016, p. 1.

the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(27) To ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to introduce technical and operational requirements to facilitate the smooth functioning of the single European railway area concerning uniform criteria for the requirements set by infrastructure managers with regard to applicants; ~~common procedures, criteria and methodologies for the management of scarce capacity, for contingency planning, and for the allocation of capacity beyond the period covered by the working timetable; common approach to compensations paid for changes to allocated capacity; common criteria and procedures for rescheduling; the definition of the technical elements of a system for monitoring the performance of rail and rail-related services, including methodologies and data requirements and their review; detailed rules regarding the procedure for concluding framework agreements, the form and the content of such agreements; detailed rules regarding the rolling planning process and related to the European framework.~~ Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁹. **Where the committee delivers no opinion in the framework of the examination procedure, the Commission should not adopt the draft implementing act.**

(27a) ***The Commission has stated its intention that in view of its planned revision of Regulation (EU) 2016/796, it will assess the feasibility and possible benefits of extending ERA competence to rail infrastructure capacity. The assessment could include considerations of using existing ERA competences on sector-wide consultation processes, in particular when establishing secondary legislation as well as a supporting role in facilitating independent performance monitoring and an assessment of the budgetary implications.***

(28) The rules on capacity allocation set out in Directive 2012/34/EU are replaced by those set out in this Regulation. Therefore, the rules on cooperation between infrastructure

⁹ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

managers, the rules on cooperation between rail regulatory bodies, the requirements for the elements of the network statement describing the nature of the rail infrastructure that is available to railway undertakings, the conditions of access to it and the principles and criteria for capacity allocation, should be defined in this Regulation. The rules on cooperation and coordination, as well as the elements of the network statement, which are not related to capacity management, should remain in Directive 2012/34/EU.

(29) The ex-post evaluation of Regulation (EU) No 913/2010¹⁰ concluded that the Regulation's impact was too limited to contribute to a modal shift from road to rail. Moreover, the cooperation between Member States and infrastructure managers in the management of the rail infrastructure was still ineffective from a cross-border perspective. The evaluation has also shown that managing separately the capacity on the rail freight corridors and on the rest of the network is not efficient. A single regulatory framework should apply to the operation of rail network capacity, consolidating the related provisions in Directive 2012/34/EU and of Regulation (EU) No 913/2010. Therefore, Regulation (EU) No 913/2010 **should be repealed** and the provisions in Directive 2012/34/EU on capacity allocation should be ~~repealed~~**deleted** and replaced by this Regulation, **while ensuring a sufficient transition period**.

30) The preparation of the working timetable requires preparatory activities to be carried out in the years preceding the entry into force of the said working timetable. Therefore, the transition from the regulatory framework established by Directive 2013/34/EU~~2012/34/EU~~ and Regulation (EU) No 913/2010 to the one established by this Regulation implies that preparations for working timetables under the new framework should begin in parallel to the application of rules under the current framework. Accordingly, a dual regime ~~must~~**should** apply in a transition phase whereby necessary preparatory steps for a given timetable should comply with the legal framework applicable to that specific working timetable. Framework agreements concluded under the current framework should have the possibility to continue ~~applying for a transition period under the new regime~~**until their expiration**.

¹⁰ SWD(2021) 134 final of 2 June 2021

(31) Under the new framework, the preparatory steps for a working timetable should begin with the publication of ~~as start of the~~ capacity strategy *phase* five years before the entry into force of a given working timetable. *This timeframe is coherent with that of the contractual agreements concluded between the Member State and the infrastructure manager, which include the structure of the payments agreed to provide funding to the infrastructure manager and which cover a period of not less than five years, as provided by Directive 2012/34/EU.* In the interest of an early application of the new regulatory framework and taking into account the preparatory work already undertaken by the sector, the schedule of activities leading to the establishment of the first two working timetables could be shortened to 38 months by abbreviating the phase of the capacity strategy. Accordingly, the first working timetable falling under the new regulatory framework should be the working timetable starting on ~~[914 December 2029]~~**2030**. All stakeholders should start the necessary preparations without delay with a view to ~~comply~~**complying** with the new framework.

(31a) *Directive (EU) 2022/2557 of the European Parliament and of the Council (CER Directive) lays down measures to achieve a high level of resilience of critical entities that provide essential services within the Union. Infrastructure managers in scope of this Regulation are in principle also in scope of the CER Directive. The CER Directive requires critical entities to take resilience-enhancing measures. This Regulation requires as well that infrastructure managers take resilience-enhancing measures in the event of network disruption and crisis situations affecting rail traffic. Resilience measures under this Regulation should apply without prejudice to, and in complementarity with, the CER Directive. Infrastructure Managers must ensure that they also fulfil their obligations under the CER Directive. Where infrastructure managers have already taken measures and drawn up documents pursuant to this Regulation, that are relevant for resilience-enhancing measures under the CER Directive, they should be able, to use those measures and documents to meet the requirements as regards resilience measures under the CER Directive.*

(32) *Since the objective of this Regulation, namely managing rail infrastructure capacity and traffic more efficiently, thereby improving the quality of services and accommodating more traffic on the railway network, cannot be sufficiently achieved by the Member States but can rather, by reason of the transnational scale of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the*

principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

HAVE ADOPTED THIS REGULATION:

• **CHAPTER I**
GENERAL PROVISIONS

Article 1

Subject-matter and scope

- 1. This Regulation lays down the principles, rules, and procedures applicable to management of rail infrastructure capacity and coordination with *operators of service* facilities, traffic management, crisis management and performance management for domestic and international rail services, *as well as the implementation of digital tools to support the capacity and traffic management processes in this Regulation*. It also lays down rules on a European Network for Coordination between infrastructure managers and with other relevant stakeholders and on the oversight of capacity and traffic management.
- 2. This Regulation applies to the use of railway infrastructure for domestic and international rail services referred to in Article 1(2) of Directive 2012/34/EU, including service facilities as defined in Article 3(11) of that Directive.
- 3. *Articles 2 and 3 of Chapter I and Chapters II to V of this Regulation shall not apply to rail infrastructure or railway services that ~~area~~ **Member State has** excluded from the application of Chapter IV of Directive 2012/34/EU in accordance with Article 2(3), (3a), (4), (8),~~–(8a)~~ and ~~(108a)~~ of that Directive during the period of validity of the relevant exclusions.*
- *3a. This Regulation shall not apply to railway services that a Member State has excluded from the application of Chapter IV of Directive 2012/34/EU in accordance with Article 2(10) of that Directive.*

- *3b. This Regulation shall not apply with respect to undertakings or to transport operations referred to in Article 2(9) of Directive 2012/34/EU.*
- 4. This Regulation shall not apply to Cyprus and Malta for as long as no railway system is established within their territory.
- 5. *This Regulation shall not prevent Member States from adopting measures necessary to safeguard essential security or defence interests and measures to ensure that military have sufficient access to railway infrastructure, in particular for military operations and training, including the types of measures described in points (a) to (e) of Article 47(1).*

Article 2
General responsibilities and principles

- *-1. This Regulation shall be without prejudice to the management independence of infrastructure managers set out in Article 4 of Directive 2012/34/EU.*
- 1. Without prejudice to Article 7c of Directive 2012/34/EU, infrastructure managers shall be responsible for the management of rail infrastructure capacity and rail traffic management.
- 2. With the view to facilitating the provision of efficient and effective rail infrastructure capacity and traffic management within the Union, infrastructure managers *referred to in Article 55(2)* shall cooperate within the European Network of Infrastructure Managers ('ENIM') referred to in Article 7f of Directive 2012/34/EU and in accordance with the provisions of this Regulation on cooperation.
- 3. In fulfilling their *tasks and* responsibilities in accordance with ~~paragraph 1 and 2~~*this Regulation*, infrastructure managers shall:
 - (a) make optimum effective use of the available infrastructure ~~capacity as required in Article 26 of Directive 2012/34/EU through effective planning and coordination~~

with the aim of increasing the share of rail transport, both for passenger and freight services in accordance with Union's climate targets;

- (b) maximize the value to society of rail transport services enabled by rail infrastructure in social, economic and environmental terms;
- (c) ensure non-discriminatory management of and transparent, *equitable* access to infrastructure capacity, including during *infrastructure* works, with a view to ~~supporting~~*enable* fair competition *and with the aim to guarantee the optimal competitiveness of rail services*;
- (d) enable seamless rail traffic across more than one network *and across borders by striving to eliminate bottlenecks and operational obstacles*;
- (e) ensure transparency about the state and availability of rail infrastructure capacity;
- (f) review and improve the performance of rail infrastructure ~~and transport services~~ in close cooperation with ~~rail sector operators~~*operational stakeholders*;
- (g) contribute to the implementation and development of the single European railway area, *in particular through common European technical and operational rules and standards*.

Article 3

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

- 1. Infrastructure managers shall carry out the functions of traffic and capacity management, including maintenance planning in a transparent and non-discriminatory manner and the persons in charge of taking decisions in respect of those functions shall not be affected by any conflict of interest.
- **1a. Infrastructure managers shall respect the commercial confidentiality of information provided to them, in accordance with Union law and national law, including, where appropriate, by anonymising the information shared with other parties.**

- 2. As regards traffic management, infrastructure managers shall ensure that ~~railway undertakings~~**operational stakeholders**, in cases of disruption concerning them, have full and timely access to relevant information. Where the infrastructure manager grants further access to the traffic management process, it shall do so for the ~~railway undertakings~~**operational stakeholder** concerned in a transparent and non-discriminatory way.
- 3. As regards capacity management and the long-term planning of major maintenance, renewal and upgrade of the railway infrastructure, the infrastructure manager shall consult applicants, as defined in Article 3, point 19 of Directive 2012/34/EU, in accordance with this Regulation and, ~~to the best possible extent, take into~~ **take the utmost account of** the concerns expressed.

Article 3a

Strategic guidance and national requirements

- 1. *Member States may provide the infrastructure manager with strategic guidance based on the indicative rail infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. That guidance shall respect the operational responsibilities of the infrastructure manager, enabling them to optimise use of the network, and coordinate effectively the attribution of capacity for cross-border traffic. That guidance shall be consistent with the provisions laid down in this Regulation. That guidance shall be timely provided, as for infrastructure managers to be able to follow the deadlines set out in Annex I, and may cover or contain in particular:*
 - (a) general objectives of national rail policy relevant for strategic capacity planning within the scope of this Regulation;*
 - (b) an outlook on the development of rail infrastructure, taking into account relevant plans and strategies at national or regional level and the work plans of the European Transport Corridors;*
 - (c) general requirements and guidelines as regards the use of rail infrastructure capacity, which the infrastructure manager shall take into account in strategic capacity planning, in particular in relation to highly utilised and congested infrastructure referred to in Article 21;*

- (d) *an outlook on the planned development of rail services operated under public service obligations, taking into account, where necessary, the views of the regional or local authorities involved.*
- 2. *Member States may provide that one or more elements of guidance referred to in this paragraph are binding by requiring infrastructure managers:*
 - (a) *to implement specific timetable designs for both freight and passenger services such as integrated clock-face timetables;*
 - (b) *to reserve minimum volumes of capacity to traffic types referred to in Article 12 to reflect their transport policy priorities;*
 - (c) *to pre-plan infrastructure capacity on certain sections and nodes, in accordance with Article 18(4);*
 - (d) *to reflect national transport policy priorities by means of national parameters in the methodology for capacity partitioning in accordance with Article 25 and by means of national parameters in the methodology for formal conflict resolution in accordance with Article 37.*

Such requirements shall not commit available capacity for any element of infrastructure to an extent that deprives the infrastructure manager of a sufficient operational margin to fulfil all its tasks and responsibilities set out in Article 2(3).

The provision of rail transport services under specific timetable designs, such as integrated clock-face timetables, the consultation on strategic capacity planning and the allocation of capacity rights required for such services shall remain open to all applicants and railway undertakings under transparent, equitable and non-discriminatory terms.
- 3. *Where Member States have adopted strategic guidance and requirements pursuant to paragraphs 1 and 2, they shall provide them in a single document. Such document shall be made publicly available on their website. ENIM shall make the links available on its website.*
- 4. *Member States shall coordinate in accordance with Article 53a to ensure consistency between the respective strategic guidance and requirements they provide in*

accordance with this Article with a view to supporting the development of international passenger and freight rail services.

- 5. *Without prejudice to State aid rules, Member States may, where appropriate, grant the infrastructure manager compensation corresponding to losses of revenue related exclusively to the compliance with the strategic guidance and requirements regarding the use of rail infrastructure capacity.*

Article 4

Definitions

For the purposes of this Regulation, the definitions in Article 3 of Directive 2012/34/EU shall apply.

The following definitions shall also apply:

- (1) ‘force majeure’ means any unforeseeable, *unavoidable or exceptional* or ~~unusual~~ event or situation beyond the control of the ~~infrastructure manager or the railway undertaking~~ *operational stakeholder* which cannot be ~~avoided~~ or overcome with reasonable foresight and diligence, *cannot* be solved by measures which are from a technical, financial or economic point of view reasonably possible for them, which has actually happened and ~~is~~*needs to be* objectively verifiable, and which makes it impossible for the ~~infrastructure manager~~*operational stakeholder* to fulfil, temporarily or permanently, its obligations in accordance with this Regulation ~~or~~, Directive 2012/34/EU or ~~for the railway undertaking to meets its contractual obligations towards an infrastructure manager or managers~~;
- (2) ‘interoperability’ means interoperability as defined in Article 2(2) of Directive (EU) 2016/797 of the European Parliament and of the Council¹¹;
- (3) ‘operational stakeholder~~stakeholders~~’ means ~~an applicant~~*applicants*, railway ~~undertaking~~*undertakings*, infrastructure ~~manager~~, ~~rail~~*managers*, *competent authorities*

¹¹ Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44).

~~referred to in Regulation (EC) 1370/2007, operators of service facility operator, provider of rail related services~~**facilities** and any other entity directly involved in operating a rail transport service;

- (4) ‘European Coordinator’ means the Coordinator ~~referred to in~~**designated under** Article 5152 of Regulation [... new TEN-T Regulation](EU) 2024/1679;
- (4a) ‘European Transport Corridors’ means the corridors referred to in Article 7, 11 and Annex III of Regulation (EU) 2024/1679;
- (5) ‘framework agreement’ means a legally binding general agreement under public or private law, setting out the rights and obligations of an applicant and the infrastructure manager in relation to the infrastructure capacity to be allocated and the charges to be levied over a period longer than one working timetable period;
- (6) ‘simultaneous capacity allocation’ means a process whereby infrastructure managers allocate rail infrastructure capacity in response to a set of requests for capacity received by a given cut-off date and through coordination of these requests to ensure the best possible utilisation of the infrastructure and the closest possible match with the requests;
- (7) ‘first come, first served’ means a principle for the allocation of rail infrastructure capacity where the priority for the allocation process is given according to the chronological order of the capacity requests;
- (8) ‘train path’ means the infrastructure capacity needed to run a train between two places over a given period, which is described as an exact route with timing for that train, including the origin and destination, an entry time and day and an exit time and day, including any stopping point and related departure times;
- (9) ‘capacity specification’ means a capacity right, which specifies the commercial and operational characteristics of the infrastructure capacity relevant for the applicant concerned and which provides the infrastructure manager with enough information to prepare specific train paths that respect those characteristics;
- (10) ‘multi-network rail service’ means a freight or passenger rail transport service, domestic or international, which is operated on two or more networks managed by different infrastructure managers. The train may be joined and/or split and the different sections may

have different origins and destinations, ~~provided that all wagons or carriages cross over into at least one network operated by a different infrastructure manager;~~

- (11) 'multi-network capacity right' means the entirety of capacity rights enabling the provision of a multi-network rail service;
- (12) 'partitioning of infrastructure capacity' means assigning shares of the total available capacity of an element of infrastructure to different types of rail transport services and to capacity restrictions resulting from infrastructure work;
- (13) 'working timetable' means the continuously updated data defining all planned train and rolling-stock movements which will take place on the relevant infrastructure, as expressed by allocated capacity rights, during a working timetable period;
- (14) 'working timetable period' means the period of time during which a given working timetable is valid;
- (15) 'infrastructure work' means ~~interventions~~***an intervention*** on the railway infrastructure for the purpose of development, maintenance, renewal and upgrade of the railway infrastructure as defined in Article 3, points (2a), (2c), (2d), and (2e), ***respectively***, of Directive 2012/34/EU;
- (16) 'regulatory body' means the regulatory body referred to in Article 55 of Directive 2012/34/EU;
- (17) 'incident' ~~shall mean~~***means*** any occurrence, or series of occurrences having the same origin, which causes disruption of rail traffic;
- (17a) '***sections and nodes***' means ***a representation of the railway network in the form of a graph composed of nodes connected by sections which is structured in a way that allows to take into account relevant characteristics of the supply of and demand for railway infrastructure capacity, in particular for the purpose of strategic capacity planning;***
- (17b) '***specific timetable design***' means ***a particular way of arranging the train paths in a timetable, including for multi-network traffic, with a view to pursue particular policy objectives;***

(17c) ‘exceptional transport’ means exceptional transport as defined in Appendix J of Implementing Regulation (EU) 2019/773¹;

(17d) ‘clockface timetable’ means a specific timetable design aimed to replicate rail services at regular and consistent intervals and the combination of paths on the sections and nodes of a network, or part of a network, taking into account, where relevant, the connections and transfer times between services;

(17e) “Element of infrastructure” means a portion of tracks of the network that is identified by the infrastructure manager for the purpose of application of specific provisions in this regulation;

(17f) ‘capacity restriction’ means a lessening of the capacity, or a reduction in the performance of infrastructure below its design values, for reasons within or beyond the control of the infrastructure manager, such as infrastructure works, degradation of assets, or extreme weather events.

• CHAPTER II

MANAGEMENT OF INFRASTRUCTURE CAPACITY

SECTION 1

GENERAL PRINCIPLES FOR THE MANAGEMENT OF INFRASTRUCTURE CAPACITY

Article 5

Capacity management

- 1. Infrastructure managers shall manage rail infrastructure capacity through a planning and allocation process comprising three phases:
 - (a) strategic capacity planning as referred to in section 2;
 - (b) scheduling and allocation of infrastructure capacity as referred to in section 3;
 - (c) adaptation and rescheduling of allocated capacity as referred to in section 4.

- 2. In addition to the content laid down in Annex IV to Directive 2012/34/EU, Infrastructure managers shall include in the network statement referred to in Article 27 of that Directive a section on the infrastructure made available to railway undertakings; a section on capacity management; a section on operations, including on traffic management, disruption management and crisis management; and a section on performance management, in accordance with Annex IV.
- 3. Decision making concerning capacity management as referred to in paragraph 1, including both the definition and the assessment of availability and the allocation of capacity rights, shall be an essential function of the infrastructure manager within the meaning of Article 3, point (2f) of Directive 2012/34/EU. The provisions on essential functions laid down in that Directive shall apply to it.

Article 6

European framework for capacity management

- 1. ~~Infrastructure managers shall strive to follow common principles and procedures for the management of rail infrastructure capacity. For this purpose, By [18 months of the entry into force of this Regulation]~~ ENIM shall develop and adopt a ‘European framework for capacity management’, in accordance with the provisions of Chapter II by ~~[12 months of the entry into force of this Regulation]~~ and Article 3a, laying down common tools, methodologies and procedural arrangements for the management of rail infrastructure capacity and for the coordination between infrastructure managers and other operational stakeholders. Infrastructure managers shall take the utmost account of those common tools, methodologies and procedural arrangements for the management of rail infrastructure capacity.
- 1a. *When preparing the network statement referred to in Article 27 of Directive 2012/34/EU and Article 5(2) of this Regulation, infrastructure managers shall take the utmost account of the European framework for capacity management. They shall explain, in the network statement, the reason for any deviation from the common tools, methodologies and procedural arrangements established in the European framework for capacity management.*

- 1b. ENIM shall publish a draft of the European framework for capacity management for consulting ERP and operational stakeholders. ERP and operational stakeholders may submit their replies to the consultation within three months after the publication of this draft.*
 - 1c. ENIM shall submit the final draft for the European framework for capacity management to the European Network of Rail Regulatory Bodies (the 'ENRRB') within 12 months after the entry into force of this Regulation. The ENRRB shall submit a recommendation to ENIM on the European framework for capacity management, within three months after receiving the draft prepared by ENIM. ENIM shall take the utmost account of this recommendation when adopting the European framework for capacity management.*
 - 2. The European framework for capacity management shall define common principles and procedures for the management of rail infrastructure capacity and for the coordination between infrastructure managers, railway undertakings and other applicants, rail service facility operators and other operational stakeholders.*
 - 3. The European framework for capacity management shall include at least the elements listed in Annex III and shall be updated when necessary to take into account the experience of infrastructure managers, railway undertakings and other applicants and based on operational stakeholders as well as the activities of ENIM. When the European framework for capacity management is updated, ENIM shall consult ERP and operational stakeholders, and submit the final draft to the ENRRB for recommendation, in accordance with paragraph 1b and 1c.*
 - 4. Infrastructure managers shall take the utmost account of the European framework for capacity management when preparing the network statement referred to in Article 27 of Directive 2012/34/EU, in particular the contents specified in Annex IV of this Regulation. They shall explain in the network statement the reason for any deviation from the common principles and procedures established in the European framework for capacity management.*
 - 4a. When exercising its powers in relation to the network statement in accordance with Article 56(1) and 56(2) of Directive 2012/34/EU, the regulatory body shall take into account the recommendation on the European framework for capacity management*

adopted by ENRRB, in accordance with paragraph 1a and without prejudice to the principle of independence of regulatory bodies.

- 4b. The Commission is empowered, in accordance with Article 70b, to adopt implementing acts setting out the European Framework for capacity management, as defined in paragraph 2 of this Article.*
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Article 7

Applicants

- 1. Applicants shall make requests for infrastructure capacity. In order to use such infrastructure capacity, applicants ***which are not railway undertakings*** shall appoint a railway undertaking. ***The railway undertaking shall*** to conclude an agreement with the infrastructure manager in accordance with Article 28 of Directive 2012/34/EU. This is without prejudice to the right of applicants to conclude framework agreements with infrastructure managers under Article 31 of this Regulation.
- 2. The infrastructure manager may set requirements with regard to applicants to ensure that its legitimate expectations about future revenues and utilisation of the infrastructure are safeguarded. Such requirements shall be appropriate, transparent and non-discriminatory. They shall be specified in the network statement ~~as referred to in point (1)(b) of~~ ***in line with*** Annex IV, ***point (2)(c)***. They may only include the provision of a financial guarantee that shall not exceed an appropriate level which shall be proportional to the contemplated level of activity of the applicant, and assurance of the capability to prepare compliant bids for infrastructure capacity.
- 3. The Commission may adopt implementing acts setting out the details of the criteria to be followed for the application of paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Article 8

Management of searée infrastructure capacity

- 1. Infrastructure managers shall ensure that searée infrastructure capacity is managed in accordance with the principles set out in Article 26 of Directive 2012/34/EU and in Article 2 of this Regulation in all phases of the capacity management process referred to in Article 5.
- 2. When taking decisions on searée *infrastructure* capacity, infrastructure managers shall take into account *the* strategic guidance *and national requirements* on the utilisation of infrastructure capacity provided by Member States in accordance with Article 11(3a) *where Member States have provided such guidance and requirements. Planning and allocation of capacity shall follow equitable, transparent, and non-discriminatory procedures.*

~~Without prejudice to State aid rules, Member States may, where appropriate, grant the infrastructure manager compensation corresponding to losses of revenue related exclusively to the need to comply with the strategic guidance regarding the use of rail infrastructure capacity.~~

- 3. Infrastructure managers shall plan and allocate searée capacity to the largest extent possible ~~through the consensual conflict resolution mechanism referred to in Article 36 involving the applicants concerned and resulting in consensual, seeking solutions to conflicting compatible with applicants' capacity needs and requests for capacity rights, while ensuring the overall optimal use of railway infrastructure on the network concerned.~~
- 4. ~~If the mechanism referred to in paragraph 3 does not result in a satisfactory resolution of conflicting capacity needs and requests, infrastructure managers shall manage searée capacity or resolve conflicts through objective, transparent and non-discriminatory procedures.~~

~~Those procedures shall assess alternative options for the use of infrastructure capacity, based on the following socioeconomic and environmental criteria, subject to the availability of data:~~

- (a) ~~operating cost for operators of rail transport services and the resulting impact on prices for customers of rail transport services;~~
- (b) ~~time related cost for customers of rail transport services;~~
- (c) ~~connectivity and accessibility for people and regions served by the rail transport services;~~
- (d) ~~emissions of greenhouse gases, local air pollutants, noise and other external cost of rail transport services and by their likely alternatives;~~
- (e) ~~safety and public health implications of rail transport services and their likely alternatives.~~
- 5. ~~ENIM shall prepare and adopt the procedures referred to in paragraph 4 and include them in the EU framework for capacity management referred to in Article 6. The procedures shall involve the following steps:~~
 - (a) ~~design alternative scenarios to partition the capacity available for different types of rail transport services, involving, where possible, the provision of alternative capacity on other routes or alternative timing with comparable characteristics;~~
 - (b) ~~evaluate and rank the scenarios on the basis of objective and transparent methodologies taking into account the socio-economic and environmental criteria set out in paragraph 4;~~
 - (c) ~~select the highest ranked scenario on the basis of the evaluation referred to in point (b) and amend the definition of the capacity model and the capacity supply plan accordingly.~~
- 6. ~~ENIM shall develop the methodologies referred to in paragraph 5, point b. The parameters of those methodologies shall make it possible to take into account local or national circumstances based on accepted approaches and empirical evidence. ENIM shall include those methodologies in the European framework for capacity management referred to in Article 6.~~
- 7. ~~Taking into account experiences with the preparation and implementation of the framework referred to in paragraph 6, the Commission may adopt implementing acts~~

~~setting out the specific procedures, criteria and methodologies to be applied for the management of scarce capacity. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).~~

Article 9

Information about infrastructure capacity

- 1. Infrastructure managers shall provide ~~interested parties, in particular applicants, potential applicants and regulatory bodies~~ ***and, where appropriate, other operational stakeholders***, with accurate and up-to-date information on the availability of infrastructure capacity throughout the entire capacity management process, including in the strategic planning phase referred to in section 2, during the scheduling and allocation processes set out in section 3 and whenever there are changes to allocated capacity as referred to in section 4.

Infrastructure managers shall publish any update to the capacity supply plan referred to in Article 18 and to the working timetable referred to in Article 30 without delay.

- 2. Infrastructure managers shall publish the information referred to in paragraph 1 in accordance with Article 62(5) ~~and contribute to the development of relevant specifications in accordance with Article 62(3)~~.
- 3. At the request of applicants, infrastructure managers shall provide the information referred to in paragraph 1 on the basis of concrete specifications of commercial and operational needs ('feasibility assessments'). For cross-border services, infrastructure managers shall receive and answer to such requests in a single place and single operation or via a single interface.

Article 10

Capacity restrictions resulting from infrastructure work and degraded infrastructure

- 1. Without prejudice to Articles 7, 7a, 7c and 7e of Directive 2012/34/EU, infrastructure managers shall plan infrastructure work in accordance with the business plan and with the investment and financial programmes referred to in Article 8(3) of Directive 2012/34/EU. Where amendments to those programmes after the adoption of the business plan affect or are likely to affect the planning of infrastructure works, the infrastructure

manager shall provide an overview of such amendments and their likely impact in the network statement.

- 2. When planning infrastructure works, the infrastructure manager shall act in accordance with Article 2(3) and Article 3.

In particular, the infrastructure manager shall take into account in a balanced way the impact of infrastructure works on its own asset management and financial situation as well as the *estimated* operational and financial impact on all applicants concerned.

- 3. The infrastructure managers shall consult applicants on the infrastructure works in the context of the coordination mechanisms referred to in Article 7e of Directive 2012/34/EC/2012/34/EU and, as regards cross-border rail services, in accordance with Article 54 of this Regulation.
- 4. Infrastructure manager shall plan, inform and consult applicants on capacity restrictions resulting from infrastructure works sufficiently in advance, taking into account the estimated impact on railway undertakings. For that purpose, infrastructure managers shall respect the schedule *and requirements* set out in section 3 of Annex I.
- 4a. For capacity restrictions with a major impact ~~on the capacity available to applicants~~ *within the meaning of point 0 of section 3 of Annex I*, applicants may request the infrastructure manager to provide alternative planning for the capacity restriction with a view to identify and select an option that takes into account the impacts on applicants and infrastructure managers in a balanced way. The infrastructure manager shall provide those applicants with an indicative planning of alternative capacity available during the capacity restriction.

The indicative planning shall cover both the *line/route* affected and alternative *lines/routes*, *where such alternative routes exist including on other networks*, and shall be reflected in the capacity model referred to in Article 17 and in the capacity supply plan referred to in Article 18.

- 5. Infrastructure managers shall take into account and mitigate the impact of infrastructure works on cross-border traffic. Infrastructure managers shall coordinate in accordance with Article 53 *at least regarding* all infrastructure works on the *railway* lines

~~referred to in Article 53(3) which are part of the European Transport Corridors~~ and any other infrastructure work with significant cross-border impact.

Coordination shall address in particular the optimisation of the schedule of infrastructure works and the provision of alternative capacity on the line affected and on alternative routes *as referred to in the third subparagraph of paragraph 4*, taking into account the operational and commercial needs of applicants.

- 6. Reductions in the capacity or performance of infrastructure below its design values resulting from the degradation of assets, such as reductions in permissible speed or axle load, shall also be considered as capacity restrictions. *Such capacity restrictions shall not give rise to penalties pursuant to Article 40, unless this causes a change to the characteristics of an allocated capacity right unknown to the applicant at the time of allocation and this change is categorised as significant, in accordance with Article 39(4).* The information obligations set out in Article 9 shall apply to such *capacity* restrictions.
- 7. Infrastructure managers shall publish information and consult applicants on planned temporary capacity restrictions, their impact on capacity available for commercial purposes and on alternative capacity as early as possible.
- 8. The Commission ~~shall be~~ is empowered to adopt delegated acts in accordance with Article 71 to amend section 3 of Annex I *where the elements therein have proven ineffective or led to major difficulties of implementation, or where the sector has developed new and widely accepted best practices*, with a view to reduce *further* the impact of capacity restrictions resulting from infrastructure works on rail traffic *and the administrative burden for the infrastructure managers* while taking into account planning, operational, technical and commercial considerations of the stakeholders concerned *and taking into account the experience and opinions of ENIM*.

Article 10a

Refusal or withdrawal of capacity rights on public order or public security grounds

- 1. *A Member State may require the infrastructure manager to refuse to grant, or to withdraw, capacity rights to an applicant if the competent authorities of that Member State establish that granting such rights to that applicant entails a serious and grave risk for public order or public security, including to national security and defence of that*

Member State. Any such decision shall be duly justified and strictly necessary and proportionate to the objective pursued.

- 2. *Without prejudice to the confidentiality of classified information, Member States shall, within 10 days from the adoption of a decision on the basis of paragraph 1 of this Article, inform the Commission, the regulatory body and, in case of multi-network capacity rights, other Member States concerned of the adoption of such a decision and of the reasons thereof. Member States shall regularly review any such decision.*
- 3. *In case a Member State raises concerns about a decision adopted by another Member State on the basis of paragraph 1 of this Article, the Member States concerned shall coordinate between themselves in accordance with Article 53a.*
- 4. *In case of multi-network capacity rights, a Member State concerned may request a recommendation from the Commission on the decision adopted by another Member State on the basis of paragraph 1 of this Article.*

SECTION 2

STRATEGIC CAPACITY PLANNING

Article 11

Strategic capacity planning

- 1. Strategic capacity planning shall include all activities set out in Articles 12 to 25.
- 2. Strategic capacity planning shall result in the following sequence of planning documents which provide progressively increasing level of details about available capacity:
 - (a) the capacity strategy referred to in Article 16;
 - (b) the capacity model referred to in Article 17;
 - (c) the capacity supply plan referred to in Article 18.

The contents of and the schedule for preparing those deliverables are set out in sections 1 and 2 of Annex I.

Documents under points a, b and c shall be made available by the infrastructure manager in at least two official languages of the Union.

- **2a.** Infrastructure managers shall adopt the planning documents as a basis for the next phase in the planning process.
- **2b.** The Commission shall beis empowered to adopt delegated acts in accordance with Article 71 to amend sections 1 and 2 of Annex I, to ensure an efficient strategic planning process and reflect the operational concerns of infrastructure managers and applicants, taking into account the experience of ENIM, infrastructure managers, applicants and other operational stakeholders, regulatory bodies and the ENRB in implementing this section.:
 - (i) *parts of the detailed contents of the capacity strategy, of the capacity model and of the capacity supply plan set out in section 1 of Annex I and*
 - (ii) *the deadlines of section 2 of Annex I,*

where those elements have proven ineffective or have led to major difficulties of implementation, or where the sector has developed new and widely accepted best practices, in order to ensure an efficient strategic planning process and reflect the operational concerns of infrastructure managers and applicants, taking into account the experience and opinions of ENIM, applicants, regulatory bodies and the ENRRB in implementing these sections.
- 3. Subject to the principle of management independence laid down in Article 4 of Directive 2012/34/EU, Member States may provide the infrastructure manager with strategic guidance based on the indicative rail infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. That guidance may cover/contain in particular:
 - (a) general objectives of national rail policy relevant for strategic capacity planning within the scope of this Regulation;
 - (b) an outlook on the development of rail infrastructure, taking into account relevant plans and strategies at national or regional level and the work plans of the European Transport Corridors referred to in Article 53 of the [new TEN-T Regulation];

- (e) general requirements and guidelines as regards the use of rail infrastructure capacity, which the infrastructure manager shall take into account in strategic capacity planning, in particular in relation to highly utilised and congested infrastructure referred to in Article 21;
- (f) an outlook on the planned development of rail services operated under public service obligations, taking into account, where necessary, the views of the regional or local authorities involved.

~~Member States shall coordinate to ensure consistency between the respective strategic guidance they provide in accordance with this paragraph with a view to supporting the development of international passenger and freight rail services.~~

- 4. Strategic capacity planning shall not involve the granting of capacity rights to individual applicants in accordance with Article 26.

Article 12

General requirements for strategic capacity management~~planning~~

- 1. Infrastructure managers shall take into account in a balanced, fair and equitable, transparent and non-discriminatory manner all types of rail transport services for which they are liable to receive requests for capacity, irrespective of their volume, size of downstream market, stability between consecutive timetables, regularity or frequency within a given working timetable period.
- 2. In strategic capacity planning, in particular in the capacity model referred to in Article 17 and in the capacity supply plan referred to in Article 18, infrastructure managers shall differentiate at least between the following types of rail transport services:
 - (a) freight transport services;
 - (b) inter-urban passenger services (long distance);
 - (c) urban and regional passenger services.

If necessary, in the light of experience gained in the implementation of this Regulation, ~~ENIM may define a more detailed list which further differentiates between types of rail~~

~~transport services, and~~ with a view to supporting the cross-border consistency of the strategic planning process, ***ENIM in consultation with operational stakeholders and ERP may define a more detailed a harmonised list which further differentiates between types of rail transport services. That*** list shall be included in the European framework for capacity management referred to in Article 6.

- 3. In strategic capacity planning, in particular in the capacity model referred to in Article 17 and in the capacity supply plan referred to in Article 18, infrastructure managers shall indicate the pre-planned capacity suitable for the provision of multi-network transport services.
- 4. Strategic capacity planning shall also take into account:
 - (a) the observed structure and developments of demand for infrastructure capacity, as identified through capacity allocation in previous working timetable periods and through the market monitoring referred to in Article 15 of Directive 2012/34/EU;
 - (b) the expected development of transport needs and of the resulting demand for rail transport services and infrastructure capacity, as identified through the analysis referred to in Article 15 of this Regulation;
 - (c) ***capacity needs announcements by applicants and*** the input from the consultation of ~~current and potential applicants~~ ***operational stakeholders*** in accordance with Article 13;
 - (d) the expected or planned development of infrastructure capacity, in particular as identified in the indicative rail infrastructure development strategy referred to ***in*** Article 8(1) of Directive 2012/34/EU and the business plan of the infrastructure manager referred to in Article 8(3) of Directive 2012/34/EU;
 - (e) the planned infrastructure works which are expected to affect the network;
 - (f) The characteristics of different rail transport markets, as regards in particular:
 - (i) speed;
 - (ii) frequency;

- (iii) tolerance for deviations from the allocated train path;
 - (iv) possibility to re-route, reschedule or replace services by other modes in the event of network disruptions;
 - (v) volatility of demand for rail transport and the consequent need to plan rail services on a different time horizon.
- 5. Strategic capacity planning shall reflect the capacity allocated through framework agreements and rolling planning.
- 6. Strategic capacity planning shall cover the ~~lines~~**sections and nodes** part of the TEN-T core and extended core network ~~referred to in Article 6 of and, as identified in Annex I to [new TEN-TIV of Regulation] (EU) 2024/1679~~. Infrastructure managers may *decide to include in the strategic capacity planning* other ~~lines~~**sections and nodes** of the network they manage. *In accordance with their respective strategic guidance referred to in Article 3a, Member States may also provide that infrastructure managers shall perform strategic capacity planning on other sections and nodes of the network managed by those infrastructure managers.*

Strategic capacity planning shall be carried out at a level which is sufficiently detailed to allow capacity planning for ~~specific sections of~~ the network. For this purpose, the network shall be represented by ~~nodes and sections~~ **and nodes** that allow to take into account relevant characteristics of capacity demand and supply.

Member States shall instruct infrastructure managers to indicate these nodes and sections shall be indicated ~~and nodes~~ in the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797.

- 6a. *For the purpose of strategic capacity planning, infrastructure managers shall draw up a strategic route map in terms of sections and nodes which defines the following:*
 - (a) *the geographical scope of the capacity strategy referred to in Article 16, of the capacity model referred to in Article 17 and of the capacity supply plan referred to in Article 18;*

(b) *the alternative lines considered in the event of capacity restrictions referred to in Article 10 and in the context of contingency planning referred to in Article 19.*

Member States shall ensure that the strategic route map is made publicly available and included in the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797.

- 7. Strategic capacity planning shall cover a period that is at least ~~starts~~ five years ahead ~~in time before the change of working timetable to which it relates~~. Infrastructure managers may extend the period to more than five years, in particular to support infrastructure development within the framework of the indicative rail infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU.
- 8. Infrastructure managers shall ~~regularly~~ review and update the results of the strategic capacity planning taking account, in particular, of the following:
 - (a) the development of the railway infrastructure;
 - (b) changes in market demand for infrastructure capacity, *including through the capacity needs announcements*;
 - (c) the results of the allocation processes set out in sections 3 and 4 *of this Chapter* in previous working timetable periods, including the degree of utilisation of infrastructure capacity by applicants;
 - (d) insights from traffic management performed in accordance with Chapter III;
 - (e) the result of disruption and crisis management performed in accordance with Chapter III;
 - (f) the results of the performance review in accordance with Chapter IV.
- 9. ENIM shall develop ~~guidelines setting out common principles, procedures and methodologies for strategic capacity planning. It shall and~~ include ~~those guidelines~~ in the European framework for capacity management referred to in Article 6 of this Regulation. ~~Those guidelines should contain at least the elements listed in Annex III to this Regulation. The infrastructure managers shall take the utmost account of those guidelines in the network statement referred to in Article 27 of Directive 2012/34/EU. They shall explain in~~

~~the network statement the reason for any deviation from the setting out common principles tools, procedures and methodologies established in the guidelines and procedural arrangements for strategic capacity planning.~~

- 9a. The infrastructure managers shall take account of those guidelines in the network statement referred to in Article 27 of Directive 2012/34/EU. They shall explain in the network statement the reason for any deviation from the common tools, methodologies and procedural arrangements established in the guidelines.**

Article 13

Consultation of stakeholders on strategic capacity planning

- 1. Infrastructure managers shall ~~consult all operational stakeholders on strategic capacity planning~~, in accordance with Article 7e of Directive 2012/34/EU, **consult all operational stakeholders, including those operating multi-network rail services, on strategic capacity planning, including the planning documents referred to in Articles 16 to 18, in accordance with the schedule laid down in section 2 of Annex I.**
- 2. Infrastructure managers shall ~~consult all~~ **For the purpose of consulting** operational stakeholders operating multi-network rail services ~~on strategic capacity planning, infrastructure managers shall coordinate between themselves~~ in accordance with Article 53 and, **for European and cross-border matters, Article 54.**

Article 14

Coordination on strategic capacity planning between infrastructure managers

- 1. Infrastructure managers shall coordinate **where relevant** their activities related to strategic capacity planning in accordance with Article 53.

Coordination shall ensure in particular:

- (a) the consistency of strategic planning across the networks concerned, in particular in relation to the capacity strategy, the capacity model and the capacity supply plan, the planning of infrastructure works and contingency planning;

- (b) appropriate consideration of the capacity needs for multi-network rail services in the capacity strategy, capacity model and capacity supply plan;
- (c) a review of the performance of strategic capacity planning and its outcomes in accordance with Chapter IV;
- (d) the involvement of all operational stakeholders *and, where relevant, ERP*, regulatory bodies and the European Network of Rail Regulatory Bodies ('the ENRRB') European Coordinators and, ~~where necessary~~, Member State authorities and, *where necessary*, other stakeholders.

– 2. ~~ENIM shall take into account any relevant complaint by Applicants or potential applicants shall have the right to address their concerns~~ on the planning documents referred to in Article 11(2) ~~and shall request additional information from the entities involved in the coordination in accordance with Article 53 and from operational stakeholders consulted in accordance with Article 54, prior to adopting to ENIM. ENIM may adopt~~ an opinion or recommendation to improve the consistency of those planning documents. ~~ENIM on these concerns and~~ shall share its opinion on the draft planning documents with the ENRRB or inform the latter of a failure to adopt an opinion. The ENRRB shall act in accordance with Article 65(3).

– 3. Infrastructure managers shall take into account any recommendation adopted by ENIM in accordance with paragraph 2. Where infrastructure managers do not follow the recommendation, they shall explain the reasons *thereof* in the planning documents. ~~The ENRRB shall monitor the coordination process and its implementation. It shall inform the Commission of its views on the need to address any shortcomings of the coordination process.~~

– 4. *The ENRRB shall monitor the coordination process and its implementation. It shall inform the Commission of its views on the need to address any shortcomings of the coordination process.*

Analysis of expected transport market developments

- 1. Infrastructure managers and ENIM shall regularly monitor and analyse transport markets in order to inform their overall business strategy, capacity and contingency management and investment decisions. ~~Infrastructure managers shall communicate the results of this analysis to other stakeholders for similar purposes, including the European Coordinators.~~
- 2. *The Network Coordinator shall regularly carry out a transport market study regarding network and market developments for cross-border rail services. The Network Coordinator shall review and update*~~For the purposes of this Regulation, the transport market analysis referred to in paragraph 1 shall in particular provide input to strategic capacity planning as referred to in Article 11, to the partitioning of infrastructure capacity as referred to in Article 25 and to the allocation of capacity on the basis~~*study as appropriate, and in any case at least every five years. The results of the formal conflict resolution mechanism referred to in Article 37*~~market study shall be made publicly available.~~
- 3. ENIM shall carry out a European ~~For the purposes of this Regulation, the~~ transport market study covering passenger and freight transport in multimodal context at the latest by [31 December 2028]. ~~The analysis referred to in paragraph 1 and the market study referred to in paragraph 2 shall address in particular:~~ *provide input to strategic capacity planning as referred to in Article 3a, to the partitioning of infrastructure capacity as referred to in Article 25 and to the allocation of capacity on the basis of the formal conflict resolution mechanism referred to in Article 37.*

Infrastructure managers shall take the analysis from paragraph 1 and the market study referred to in paragraph 2 into account in order to inform their overall business strategy, capacity and contingency management and investment decisions.

- (a) ~~projections of the demand for passenger and freight transport for all modes in the Union;~~
- (b) ~~estimates of the potential to increase the volume rail transport, both passenger and freight, and the conditions necessary to achieve such growth;~~

- (e) if possible, a geographical breakdown of the projected transport flows as an input to strategic capacity planning.
- 4. ENIM shall consult applicants, customers of rail transport services and their associations, national and EU public authorities on the terms of reference for the study, in particular as regards the purpose of the study and the process for stakeholder involvement.
- 5. ENIM shall review and update the study as appropriate, and in any case at least every five years.

Article 16

Capacity strategy

- 1. The infrastructure manager shall adopt a capacity strategy setting out its expectations on future developments of demand and supply of rail infrastructure capacity and its vision on how to accommodate those developments.

The capacity strategy shall serve as a ~~tool~~**basis** for communication, consultation and coordination between operational stakeholders.

- 2. The capacity strategy shall contain ~~information about the future development of rail infrastructure, an outlook on the development of the demand for different rail transport services and any other relevant~~**the** information about the availability and utilisation of railway infrastructure *listed in section 1 of Annex I*.
- 3. ~~The capacity strategy shall comprise a strategic route map which defines the following:~~
 - (a) ~~the geographical scope of the capacity strategy referred to in Article 16, of the capacity model referred to in Article 17 and of the capacity supply plan referred to in Article 18;~~
 - (b) ~~the alternative lines considered in the event of capacity restrictions referred to in Article 10 and in the context of contingency planning referred to in Article 19.~~

~~The strategic route map shall be included in the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797.~~

- 4. The infrastructure manager shall prepare, publish and, *when necessary*, regularly update the capacity strategy in accordance with the schedule and the contents set out in section 2 of Annex I.
- 5. ~~Infrastructure managers shall consult applicants on the capacity strategy in accordance with Article 13 and coordinate capacities strategies with other infrastructure managers in accordance with Article 14.~~

Article 17

Capacity model

- 1. The infrastructure manager shall establish a capacity model that refines the capacity strategy on the basis of the outcome of the consultation *of operational stakeholders referred to in Article 13 and the consultation* and coordination activities referred to in ~~Articles 13 and 14~~*Article 14, including in the form of capacity needs announcement referred to in Article 12(4)(c).*

The capacity model shall support a balanced consideration of the capacity needs of different segments of rail transport services and of infrastructure managers' needs to maintain, renew and develop (upgrade of existing and construction of new) the rail infrastructure. It shall serve as an ~~instrument~~*basis* for communication, consultation and coordination of strategic capacity planning between the operational stakeholders.

- 2. The capacity model shall at least ~~provide~~*contain the* information about the total volume of capacity available by network ~~listed in~~ section, the shares of capacity reserved for different segments of rail transport services and for capacity restrictions resulting from infrastructure works *1 of Annex I*. Infrastructure managers shall prepare and publish the capacity model for each working timetable period and ~~regularly~~*update the capacity model when needed in accordance with the schedule set out in section 2 of Annex I. The obligation to* update the capacity model in accordance with the contents and schedule set out in sections 1 and 2 of Annex I ~~shall not apply if the capacity supply plan for the same working timetable period has been published.~~
- 2a. *The infrastructure manager shall have the right, within reasonable limits, to propose a capacity model that differs from the input received in the consultation of applicants. The infrastructure manager shall define the applicable limits in its network*

statement. ENIM shall provide guidelines on the definition of such limits and include them in the European framework for capacity management referred to in Article 6.

- *2b. Where the infrastructure manager cannot prepare a capacity model within the limits referred to in paragraph 2a, it shall partition capacity on that element of infrastructure in accordance with Article 25.*
Where relevant, infrastructure managers shall coordinate in accordance with Article 14 to ensure that the outcomes of capacity partitioning are consistent and ensure seamless multi-network services.
- 3. Infrastructure managers shall document and, where relevant, justify any *substantial* divergence between the capacity model and the capacity strategy concerning the same working timetable period. ~~Where needed, the capacity strategy shall be revised in the light of developments since the adoption or the latest update of the capacity strategy.~~
- 4. ~~Infrastructure managers shall consult applicants on the capacity model in accordance with Article 13 and coordinate capacities strategies with other infrastructure managers in accordance with Article 14.~~

Article 18

Capacity supply plan

- 1. The infrastructure manager shall establish a capacity supply plan ~~with a view to providing comprehensive information about~~ *that refines the capacity model on the basis of the consultation of applicants referred to in Article 13, including in the form of capacity needs announcement referred to in Article 12(4)(c), and of the coordination between infrastructure managers referred to in Article 14.*

In accordance with the requirements laid down in sections 1 and 2 of Annex I, the capacity supply plan shall provide comprehensive information about:

- (a) infrastructure capacity available for allocation to applicants;
- (b) infrastructure capacity not available for allocation.

The capacity supply plan shall provide the basis for capacity allocation.

The capacity supply plan shall contain the information listed in section 1 of Annex I.

- **1a.** *Infrastructure managers shall prepare the capacity supply plan in accordance with the results of the strategic capacity planning process referred to in Articles 11 to 17 and following the schedule set out in section 2 of Annex I.*
- 2. Infrastructure managers shall publish the capacity supply plan for each working timetable period at the latest by the deadline set out in section 2 of Annex I and shall continuously update it until the end of the working timetable period, to which that plan refers. The capacity supply plan shall be provided for each individual day of the working timetable period concerned.
- 3. Infrastructure managers shall ~~prepare document and, where relevant, justify any substantial divergence between the capacity supply plan on the basis of the results of the strategic and the capacity planning process referred to in Articles 11 to 17 and in sections 1 and 2 of Annex I~~ *model concerning the same working timetable period.*
- 3. ~~Infrastructure managers shall document and, where relevant, justify any divergence between the capacity supply plan and the capacity model concerning the same working timetable period.~~
- 4. In the capacity supply plan, infrastructure managers may indicate infrastructure capacity as pre-planned. Pre-planned capacity means capacity for which the infrastructure manager defines characteristics and volumes of the capacity available for requests by applicants, sets out rules for the allocation of such capacity and defines the process through which such capacity can be requested, in accordance with Article 20. The specified characteristics, rules and allocation processes shall be taken into account when allocating pre-planned capacity.
- 5. Pre-planned capacity shall be presented in the capacity supply plan in the form of capacity *planning* objects as referred to in Article 20, which specify the volume and characteristics of capacity, and which are linked to allocation rules and processes through which such capacity is made available.
- 6. ~~Subject to paragraph 7, the capacity supply plan shall comprise the following elements:~~

- (a) capacity available for allocation to applicants for the working timetable period to which the capacity supply plan refers:
 - (i) capacity, which has not been pre-planned by the infrastructure manager;
 - (ii) capacity, which has been pre-planned by the infrastructure manager.
- (b) capacity which is not available for allocation to applicants:
 - (i) capacity reserved for infrastructure works with significant commercial and operational impact on applicants and railway undertakings as referred to in section 3 of Annex I;
 - (ii) capacity reserved for regular time windows allowing to schedule infrastructure works with limited impacts at a later stage;
 - (iii) capacity already allocated through framework agreements in accordance with Article 31 or through the multi-annual rolling planning process in accordance with Article 33;
 - (iv) capacity reserved for purposes other than those set out in points (i), (ii) and (iii), which shall be clearly indicated by the infrastructure manager.

The capacity supply plan shall indicate the restrictions applicable for the use of specialised infrastructure referred to in Article 24.

- 7. Infrastructure managers shall include in the capacity supply plan the elements listed in paragraph 6, point (b) of for the rail infrastructure that they manage.

Infrastructure managers shall include in the capacity supply plan all elements listed in paragraph 6 for all lines and nodes included in the TEN-T core and extended core network as defined in [new TEN-T Regulation].

Infrastructure managers may include in the capacity supply plan the elements referred to in paragraph 6 for other lines and nodes of the network they manage.

- 8. When pre-planning capacity in accordance with paragraph 6, point (a)(ii), *The infrastructure managers* *manager* shall follow the principles set out *have the right, within reasonable limits, to propose a capacity supply plan that differs from the input received*

in the consultation of applicants. The infrastructure manager shall define the applicable limits in its network statement. ENIM shall provide guidelines on the definition of such limits and include them in the European framework for capacity management referred to in Article 8(4)6.

- 8a. Where the infrastructure manager cannot prepare a capacity supply plan within the limits referred to in paragraph 8, it shall partition capacity on that element of infrastructure in accordance with Article 25. Where relevant, infrastructure managers shall pre-plan capacity based on the strategic guidance by Member States in accordance with Article 11(3), the results of the consultation of applicants in accordance with Article 13 and the coordination between infrastructure managers coordinate in accordance with Article 14 to ensure that the outcomes of capacity partitioning are consistent and ensure seamless multi-network services.*
- 9. The infrastructure manager shall submit the draft capacity supply plan to the regulatory body for scrutiny, whereupon the regulatory body shall analyse the capacity supply this plan and may take a decision requiring the infrastructure manager to amend the capacity supply plan where the analysis has concluded that that plan does not comply with the provisions of this Regulation, of Directive 2012/34, or with the principles of transparency and non-discrimination. The deadlines for this process are referred to in section 2 of Annex I.*

Where relevant, The decision of the regulatory body bodies shall take into account any opinion of or recommendation by ENIM, where such has been provided coordinate with other regulatory bodies.
- 10. ENIM shall adopt develop guidelines and include them in the European framework for capacity management referred to in Article 6, setting out the following:*

 - (a) the means for publication of the capacity supply plan, including digital services, tools, functions and interfaces;*
 - (b) the process for the consultation of applicants on the capacity supply plan.*

Contingency planning

- 1. Infrastructure managers shall put in place and implement a continuous process of contingency planning to prepare for disruptions of network operations and for other crisis situations affecting rail traffic.

Contingency planning shall provide the basis for traffic management, disruption management and crisis management in accordance with Article 42, with a view to enabling a fast reaction in such situations and to minimize their impact on rail traffic.

Infrastructure managers shall document the results of contingency planning in a contingency plan.

- 2. Contingency planning shall involve in particular:
 - (a) the designation of alternative routes, *where such routes exist including on other networks*, allowing to re-route traffic in the event of non-availability of the ~~lines~~*elements of infrastructure* included in the core and extended core TEN-T network ~~as set out in Article 6 of and Annex I to [new TEN-T Regulation], and of any sections and nodes covered by the strategic capacity planning documents~~;
 - (b) an indicative planning of the infrastructure capacity available on the alternative routes designated in accordance with point (a), providing transparency about infrastructure capacity available on such ~~lines~~*routes*, which can be utilised in the case of incidents and, in particular, network disruptions in accordance with Article 46;
 - (c) the definition of rules and procedures for traffic and crisis management, including on the sharing of information between infrastructure managers, other operational stakeholders and other stakeholders such as public authorities in charge of rail or security and emergency response, as well as criteria for the activation of these procedures;
 - (d) the identification and listing of bodies to be informed in the event of serious incidents or serious disruptions to train movements;

- (e) any other preparations necessary to perform disruption management and crisis management in accordance with Article 42 and with the European framework for the ~~cross-border~~ coordination of **cross-border** traffic management, disruption management and crisis management referred to in Article 44.
- 3. Infrastructure managers shall ensure the consistency of contingency planning with strategic capacity planning, in particular the capacity strategy, the capacity model, the capacity supply plan and with the planning for infrastructure works as referred to in Article 10.
- 4. The results of contingency planning, in particular the designation of alternative lines in accordance with paragraph 2, point (a) and the indicative capacity planning on alternative lines in accordance with paragraph 2, point (b) shall be included in the capacity model and in the capacity supply plan.
- 5. The Commission shall adopt implementing acts setting out the details of the procedure and criteria to be followed for the application of paragraph 2, in particular for situations which have a potential impact on cross-border traffic. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Article 20

Criteria and procedures for the allocation of pre-planned capacity and for the definition of capacity planning objects

- 1. Infrastructure managers shall allocate pre-planned capacity included in the capacity supply plan referred to in Article 18 via transparent and non-discriminatory criteria and procedures.

Infrastructure managers shall include these criteria and procedures in the network statement taking into account the common framework referred to in paragraph 3.

- *1a. Infrastructure managers may group capacity planning objects, such as pre-planned train paths when pre-planning capacity to provide a specific timetable design, in accordance with the strategic guidance referred to in Article 3a when provided and taking into account market needs expressed by applicants.*

- 2. Capacity planning objects shall define the characteristics and properties of different types of pre-planned capacity, including capacity available for requests by applicants, capacity reserved for infrastructure works and capacity already allocated. Those characteristics and properties shall include all aspects relevant for specific types of pre-planned capacity, such as route, timing, guaranteed or required minimum speed, **maximum length**, the technical compatibility between rolling stock with infrastructure, parameters and number of ~~slots~~**paths** included **for both freight and passenger services**.
- 3. ENIM shall develop a common framework for the criteria and procedures referred to in paragraph 1 and include it in the European framework for capacity management referred to in Article 6. That common framework shall balance the benefits of reserving capacity for specific types of rail services or allocation processes with the need to ensuring flexibility to accommodate market needs in capacity allocation. For that purpose, the common framework shall provide for the possibility of ~~taking into account accepting~~ requests for capacity rights not consistent with ~~pre-planned~~**the capacity in the context of the consensual conflict resolution mechanism referred to in Article 36****supply plan and the need to adjust the capacity supply plan accordingly**.
- 4. ENIM shall develop ~~and adopt formal~~ specifications for capacity planning objects in human-readable and in machine-readable format. ENIM shall include these specifications in the European framework for capacity management referred to in Article 6. Based on its experience in applying this Article, ENIM shall provide information to the Commission on possible amendments to the technical specifications on interoperability as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, in accordance with Article 62(3) of this Regulation.

Article 21

Highly utilised and congested infrastructure

- 1. Infrastructure managers shall declare without delay an element of infrastructure either ~~to be as~~ **being** highly utilised or ~~to be~~ congested if at least one of the following conditions is met:

- (a) the capacity utilisation *of rail infrastructure capacity* has exceeded the threshold values for highly utilised or for congested infrastructure during the reference periods set out in ~~point 1 of~~ Annex II in the previous or the current working timetable period;
- (b) ~~the results of infrastructure managers are required to partition capacity in strategic capacity planning carried out in accordance with this section indicate that the capacity needs expressed during the strategic capacity planning phases exceed the capacity available for allocation during a given working timetable period Article 17(2)b or Article 18(8)a;~~
- (c) **major** infrastructure works resulting in capacity restrictions scheduled in accordance with Article 10 result in capacity becoming ~~searee~~**highly utilised or congested**.

Infrastructure managers shall assess the utilisation of rail infrastructure capacity on the basis of objective, transparent and appropriate procedures and methods.

- 1a. ***ENIM shall develop a common method on the utilisation of rail infrastructure capacity. This method shall be included in the European framework for capacity management referred to in Article 6.***
- 2. The declaration referred to in paragraph 1 shall specify the working timetable period and the element of infrastructure and the specific time periods to which it relates.
- 3. Conflicting individual capacity requests submitted for allocation during the working timetable ***period*** shall not be a ground for declaring an element of infrastructure to be highly utilised or congested unless the conditions set in paragraph 1 are met.
- 4. Where infrastructure has been declared ~~to be as~~ highly utilised or congested, the infrastructure manager shall carry out a capacity analysis in accordance with Article 22, unless a capacity-enhancement plan, as provided for in Article 23 ***and addressing all relevant factors, has been carried out in the five years preceding the declaration of infrastructure as highly utilised or congested or is already being implemented.***
- 5. For elements of infrastructure declared highly utilised or congested, infrastructure managers shall reserve capacity in the capacity supply plan referred to in Article 18, taking into account the outcome of the capacity analysis referred to in Article 22.

- 6. ~~Where charges in accordance with Article 31(4) of Directive 2012/34/EU have not been levied or have not achieved a satisfactory result and the infrastructure has been declared to be congested, the infrastructure manager shall apply a procedure to partition or to allocate scarce infrastructure capacity on the basis of transparent and objective criteria. That procedure shall be implemented in accordance with Article 8 of this Regulation and shall be set out, together with the applicable criteria, in the network statement.~~
- 7. **Member States shall instruct** infrastructure managers shall ~~to~~ indicate *elements of* infrastructure declared *as* highly utilised or congested in the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797.
- 8. The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement and shall respect any measures and criteria adopted in accordance with paragraph 76.
- 9. The Commission ~~shall be~~ is empowered to adopt delegated acts in accordance with Article 71 to amend *the thresholds for capacity utilisation and the reference periods set out in Annex II where those elements have proven ineffective or have led to major difficulties of implementation, or where the sector has developed new and widely accepted best practices, in order* to ensure an efficient management of capacity on highly utilised and congested infrastructure and reflect the operational concerns of infrastructure managers and applicants, taking into account the experience of ENIM, infrastructure managers, applicants and other operational stakeholders, regulatory bodies and the ENRBENRRB in implementing this Article.

Article 22

Capacity analysis in case of highly utilised or congested infrastructure

- 1. The infrastructure manager shall carry out a capacity analysis within six months of the declaration of infrastructure as highly utilised or congested, *unless a capacity-enhancement plan, addressing all relevant factors, has been carried out in the five years preceding the declaration of infrastructure as highly utilised or congested or is already being implemented.*

The capacity analysis shall determine the constraints on infrastructure capacity which prevent the inclusion of capacity needs expressed by applicants in the capacity model, or in

the capacity supply plan, or which prevent requests for infrastructure capacity from being adequately met.

The capacity analysis shall also include a first indicative set of possible measures to be taken in the short, medium and long term to ease the congestion and increase the availability of capacity.

- 2. The capacity analysis shall consider the characteristics of infrastructure in terms of capacity, capabilities and interoperability, operating procedures, the nature of the different services operating and the effect of all those factors on infrastructure capacity. Measures to be considered shall include in particular rerouting services, ***including via different networks if applicable***, retiming services, speed alterations, harmonisation of operating procedures and infrastructure improvements.
- 3. Infrastructure managers shall consult applicants on the draft capacity analysis in accordance with Article 7e of Directive 2012/34/EU and, if the ~~section of the~~***element of*** infrastructure concerned is part of a European Transport Corridor, in accordance with Article 54 ***of this Regulation***.

The infrastructure manager shall make ~~public~~ the result of the capacity analysis ***publicly available on its website***. ENIM shall ~~ensure that these publications are easily~~***make the links available on its website***.

- 4. Infrastructure managers shall take into account, ***where relevant***, the results of any capacity analysis carried out, ***including in other networks concerned***, pursuant to this Article in strategic capacity planning, in particular in the capacity strategy, in the capacity model and in the capacity supply plan.

The results of the capacity analysis shall be submitted to Member States' authorities in charge of preparing the indicative rail infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU and to the European Coordinator in charge of the European Transport Corridor concerned.

Capacity-enhancement plan

- 1. Within six months of the completion of a capacity analysis in accordance with Article 22, the infrastructure manager shall establish a capacity-enhancement plan **for elements of infrastructure declared congested, in accordance with Article 21.**

The capacity-enhancement plan shall identify:

- (a) the reasons for the congestion;
- (b) the likely future development of traffic;
- (c) the constraints on infrastructure development;
- (d) the options and costs for capacity enhancement, including **measures described in Article 22 (2) and** likely changes to access charges.

On the basis of a cost benefit analysis of the possible measures identified, the capacity-enhancement plan shall also determine the action to be taken to enhance infrastructure capacity, including a timetable for implementing the measures.

- 2. The capacity-enhancement plan shall be established after consultation with users of the relevant congested infrastructure in accordance with Article 13.

~~It may~~ **A Member State may decide that that plan shall** be subject to **its** prior approval by the Member State.

- 3. The Member State concerned shall take into account capacity-enhancement plans when renewing the indicative rail infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU.

The European Coordinator of the European Transport Corridor concerned shall take into account the capacity-enhancement plan in its work plan referred to in Article 53 of ~~{new TEN-T Regulation}~~ **(EU) 2024/1679.**

- 4. Without prejudice to Article 40 of this Regulation, the infrastructure manager shall cease to levy any charges for the relevant infrastructure under Article 31(4) of Directive 2012/34/EU in one of the following cases:

- (a) the infrastructure manager does not produce a capacity-enhancement plan;
- (b) the infrastructure manager does not make progress with the actions identified in the capacity enhancement plan.

- 5. Notwithstanding paragraph 4, the infrastructure manager may, subject to the approval of the regulatory body, continue to levy the charges in one of the following cases:
 - (a) if the capacity-enhancement plan cannot be realised for reasons beyond its control;
 - (b) if the options available are not economically or financially viable.

Article 24

Specialised infrastructure

- 1. Without prejudice to paragraph 2, infrastructure capacity shall be considered to be available for the use of all types of traffic compatible with the route intended for operation in accordance with Directive (EU) 2016/797 and the specifications laid down in implementing acts adopted ~~under it on the basis thereof~~.
- 2. Where there are suitable alternative routes and where in accordance with the procedure set out in Article 25 it can be demonstrated that it is justified from a social, economic and environmental perspective to do so, the infrastructure manager may, after consultation with interested parties, designate ~~particular~~**elements of** infrastructure for use by specified types of traffic. In that case the infrastructure manager shall indicate the designation in the planning documents referred to in Article 11(2) and **in the network statement and** shall reserve capacity for the specified types of traffic in the capacity supply plan.

Such designation shall not prevent the use of such infrastructure by other types of traffic when capacity is available.

- 3. **Member States shall ensure that the** infrastructure designated pursuant to paragraph 2 ~~shall be~~**is** indicated ~~in the network statement~~, in the register of infrastructure referred **to** in Article 49 of the Directive (EU) 2016/797, ~~in the capacity strategy, in the capacity model and in the capacity supply plan~~.

Capacity partitioning of infrastructure capacity on the basis of socio-economic and environmental criteria declared as being highly utilised or congested

- 1. Where an element of infrastructure has been declared to be highly utilised or congested in a future working timetable period, *reference is made to this Article* the infrastructure manager shall partition capacity on that element *the applicable elements* of infrastructure in the capacity model referred to in Article 17 and in the capacity supply plan referred to in Article 18 which relate to the working timetable period concerned *applying an equitable, transparent, and non-discriminatory methodology*.

The infrastructure manager shall set out the details of this methodology, including all applicable parameter values, in the network statement taking account of the European framework for capacity management. Parameter values defined by the infrastructure manager shall be subject to coordination in accordance with point (d) of Article 7e of Directive 2012/34/EU.

The infrastructure manager shall take into account the need for capacity for multi-network rail services.

- 2. When partitioning infrastructure capacity pursuant to *The methodology referred to in paragraph 1, the infrastructure manager shall act in accordance with Article 8*. *involves the following steps:*
 - (a) *design alternative scenarios to partition the capacity available for different types of rail transport services involving, where possible, the provision of alternative capacity on other routes or alternative timing;*
 - (b) *evaluate and rank the scenarios referred to in point (a) taking into account the operational, socio-economic, and environmental criteria set out in paragraph 3;*
 - (c) *select the highest ranked scenario on the basis of the evaluation referred to in point (b) and amend the capacity model and the capacity supply plan accordingly.*

The infrastructure manager *methodology* shall *allow to* take into account the need for capacity for multi-network rail services *in their entirety*.

- - 2a. *The evaluation referred to in paragraph 2(b) shall be based on, but not limited to, the following operational, socio-economic and environmental criteria, subject to the availability of data and taking into account technical and operational considerations and the utilisation of the infrastructure:*
 - (a) *operating cost for operators of rail transport services, and the resulting impact on prices for customers of rail transport services;*
 - (b) *time-related cost for customers of rail transport services;*
 - (c) *connectivity and accessibility for people and regions served by the rail transport services, including the quality of connections notably in terms of transfer times and the frequency of rail passenger and freight services;*
 - (d) *impacts on external costs of transport, such as accidents, emissions of air pollutants, greenhouse gases and noise produced by rail transport services and by their likely alternatives;*
 - (e) *volume of people and freight transported.*
 - 2b. *ENIM shall set out an equitable, transparent and non-discriminatory methodology and establish the list of parameters relating to rail transport services and socio-economic criteria necessary for the assessment referred to in paragraph 2a. Where relevant, it shall set out standard parameter values, or ranges of standard values. ENIM shall ensure that parameter values are sufficiently tested and calibrated in an operational context.*

ENIM shall include the methodology and the list of parameters and the standard values for the parameters in the European framework for capacity management referred to in Article 6.

The infrastructure manager shall, where relevant, adjust the standard parameter values to take into account local or national circumstances based on accepted approaches and empirical evidence and, where applicable, following Member State requirements in accordance with point (d) of Article 3a(2).

SECTION 3

SCHEDULING AND CAPACITY ALLOCATION

Article 26

Capacity rights

- 1. Applicants may apply under public or private law to the infrastructure manager to request an agreement granting rights to use railway infrastructure against a charge as provided for in section 2 of Chapter IV of Directive 2012/34/EU.

Infrastructure managers shall allocate the right to use infrastructure capacity to applicants in the form of one of the following:

(a) capacity specifications;

(b) train paths.

ENIM shall define the characteristics of capacity specifications and include those in the European framework for capacity management referred to in Article 6.

- 2. Infrastructure managers shall convert the capacity rights allocated in the form of a capacity specification into capacity rights in the form of a train path prior to the actual train run in accordance with the deadlines set out in sections 4, 5 and 6 of Annex I.
- 3. Capacity rights in the form of a train path may be granted to applicants for a maximum duration of one working timetable period. Capacity rights in the form of a capacity specification may be allocated for a duration exceeding one working timetable period in accordance with Articles 31 and 33.
- 4. Unless otherwise specified in this Regulation, the respective rights and obligations of infrastructure managers and applicants in respect of any allocation of capacity shall be laid down in contracts or in ~~Member States' legislation~~ *national law*.

- 6. Once allocated to an applicant, a capacity right shall not be transferred by the recipient to another undertaking or service.

Any form of transfer shall lead to exclusion from the further allocation of capacity ***during the current working timetable period and the following one.***

The use of capacity by a railway undertaking when carrying out the business of an applicant which is not a railway undertaking shall not be considered as a transfer. ***An applicant which is not a railway undertaking shall inform the infrastructure manager, at least 10 days before the use of the capacity, which railway undertaking will use the capacity. That information shall include evidence of the railway undertaking's acceptance.***

- 5. 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 of Directive 2012/34/EU, 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 the 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 of Directive 2012/34/EU 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.

Article 27

Methods of capacity allocation

- 1. Infrastructure managers shall grant capacity rights to applicants by means of the allocation processes referred to in Articles 31 to 34.

Any change to allocated capacity shall also be considered capacity allocation.

- 2. ~~Applicants shall have the right to request multi-network capacity rights, and to receive answers to such requests, in a single place and in a single operation. Infrastructure~~

~~managers shall cooperate in the allocation of capacity for multi-network rail services, including in particular international rail freight services and international rail passenger services.~~

~~Infrastructure managers shall allocate and manage multi-network capacity rights in accordance with Article 28.~~

- 3. ~~Infrastructure managers shall respect the commercial confidentiality of information provided to them.~~
- 4. Infrastructure managers shall allocate infrastructure capacity via digital tools and digital services in accordance with Article 62.

~~For multi-network capacity rights, ENIM shall establish a single interface or a common system in accordance with Article 62, in order to manage capacity allocation in a single place and operation.~~

- 5. ~~When requesting or making changes to allocated capacity, applicants and infrastructure managers shall comply with Article 39.~~
- 6. The infrastructure manager shall cancel a capacity right which, over a period of at least one month, has been used ~~for~~ less than a threshold quota, ~~to be laid down in the network statement~~, unless this was due to non-economic reasons beyond the applicant's control. ~~ENIM shall define ranges for the threshold quota and include them in the European framework for capacity management referred to in Article 6.~~

In this case the infrastructure manager shall inform the regulatory body.

ENIM shall define ranges for the threshold quota and include them in the European framework for capacity management referred to in Article 6.

Infrastructure managers shall define the threshold quota in the network statement taking into account the ranges for the threshold quota defined by ENIM.

The regulatory body shall monitor the ***equitable***, transparent and non-discriminatory application of this paragraph and investigate any complaints received.

- 7. Where the infrastructure manager cancels, in accordance with paragraph 6, multi-network capacity rights, the regulatory body responsible for that infrastructure manager shall inform the relevant regulatory bodies and the ENRRB.

Article 28

Allocation and coordination of the allocation of multi-network capacity rights

- 0. *Applicants shall have the right to request multi-network capacity rights by means of the allocation processes referred to in Articles 31 to 34, including the entire round trips, and to receive answers to such requests via a one-stop-shop, established in accordance with Article 62(5).*

Infrastructure managers shall cooperate in the allocation of capacity for multi-network rail services, in accordance with Article 53, in particular for cross-border rail freight services and cross-border rail passenger services.

- 1. Where the infrastructure manager receives a request for multi-network capacity rights pursuant to Article 27(2), they shall coordinate with the other infrastructure managers concerned in accordance with Article 53.
- 2. In particular, *the coordination referred to in paragraph 0* shall ensure:
 - (a) the appointment of a single point of contact in charge of communication with the applicant in relation to the request for multi-network capacity right, which shall be notified to the applicant without delay after receipt of the request;
 - (b) the compliance of the multi-network capacity right with minimum quality criteria in terms of consistency between networks and as regards aspects such as routing, timing, availability on different running days and status of the allocation;
 - (c) the consistent performance of the process of allocating multi-network capacity rights, including in particular of the consensual conflict resolution mechanism referred to in Article 36 and of the formal conflict resolution mechanism referred to in Article 37;
 - (d) the coordination of any changes to allocated multi-network capacity rights in accordance with section 4 with 4 with a view to ensuring the integrity of multi-network capacity rights at all times;

(da) without prejudice to Article 1(5), rapid and efficient route compatibility checks for exceptional transport crossing more than one network for military and defence purposes.

If infrastructure managers fail to appoint a single point of contact, the *applicant shall select the* infrastructure manager ~~on whose network the first place of departure is located~~*which* shall be responsible to act as the single point of contact for enquiries related to the specific capacity request.

- *2a. An infrastructure manager shall not cancel a multi-network capacity right under Article 27(6) without prior coordination, in accordance with Article 53, with the other concerned infrastructure managers.*

If the infrastructure manager cancels, in accordance with Article 27(6), multi-network capacity rights, it shall inform the regulatory body. The regulatory body shall inform the relevant regulatory bodies and the ENRRB.

- 3. ~~Infrastructure managers shall not provide capacity rights of worse quality in response to requests for Multi-network capacity rights~~*right applications shall be treated equal and in a non-discriminatory way* compared to ~~requests for~~*single-network* capacity concerning a single network*right applications*.
- 4. ~~As regards the compensation for changes to capacity rights referred to in Article 40, a multi-network capacity right shall be considered as a single capacity right. In particular, a cancellation due to force majeure on one network shall be considered as a cancellation due to force majeure for the capacity right along the entire route covered by it.~~
- 5. ENIM shall define the detailed procedures and methods to ~~implement~~*promote uniform application of* this Article and the minimum quality requirements referred to in paragraph 2(b) and include them in the European framework for capacity management referred to in Article 6.

Article 29

Cooperation in the allocation of rail infrastructure capacity and service facilities

- 1. *Infrastructure managers and* operators of service facilities that provide indicative information on available~~are offering services which are necessary for operating a rail~~

~~transport service facility capacity in accordance with Article 6(3) of Commission Implementing and whose service facilities are part of the trans-European transport network as specified in the Annex II to Regulation (EU) 2017/2177¹² 2024/1679, including those located in the urban nodes defined in Article 3(6) of the Regulation thereof, shall cooperate with the view of ensuring that the allocation of capacity on infrastructure managers for the purpose of the latter offering train paths that include rail facility capacity. Other operators of and in service facilities may enter into an agreement with infrastructure managers for the joint provision of capacity is consistent.~~

- 2. Infrastructure managers shall provide a list in the network statement of the service facilities referred to in paragraph 1.
- 3. Infrastructure managers shall ensure that applicants can request in one place and operation capacity rights on railway infrastructure and in the service facilities referred to in paragraph 1, *using the one-stop shop established under Article 62(5).*
Infrastructure managers may enter into an agreement with operators of other service facilities for the joint provision of capacity.
- 4. For the purpose of paragraph 3, infrastructure managers and ~~service facility~~ operators of service facilities shall coordinate the capacity and shall provide capacity rights including capacity in the ~~rail~~ service facility that meets the requirements of the applicant or shall make an effort to provide a viable alternative.
- 5. The operators of service facilities referred to in paragraph 1 shall make available information, ~~upon request or in real time where necessary~~, about the available capacity to the infrastructure manager in a digital format in accordance with Article 62¹²(5). *Real-time information shall be provided whenever supported by the digital tools referred to in Article 62(5).*
- 6. ~~For the purpose of This Article and in accordance with Article 62, ENIM shall provide guidelines on the functional and technical requirements for the exchange of information between the operators of rail facilities and infrastructure managers for the purposes of this Article. Without prejudice to Article 2 of Implementing Regulation (EU)~~

¹² Commission Implementing Regulation (EU) 2017/2177 of 22 November 2017 on access to service facilities and rail related services (OJ L 307, 23.11.2017, p. 1).

~~2017/2177, not apply to operators of service facilities may request to be exempted from the application of this Article. Such requests shall be submitted to the regulatory body and be duly substantiated. Regulatory bodies may decide to extend benefiting from an exemption in duly justified cases under Article 2 of Implementing Regulation 2017/2177.~~

- 7. ~~The ENRRB shall monitor the application of paragraph 7 and shall provide recommendations on the criteria to be used in assessing the requests for exemptions.~~

Article 30

Working timetable

- 1. Infrastructure managers shall ~~establish~~**publish** a new working timetable before the start of each working timetable period. ~~The duration of the working timetable period shall be one year.~~

Infrastructure managers shall initiate the preparation of the working timetable when allocating capacity through the annual allocation process referred to in Article 32, taking into account capacity rights allocated through framework agreements in accordance with Article 31 and through the rolling planning process referred to in Article 33.

- 2. Infrastructure managers shall ~~continuously update the working timetable~~**ensure**, until the end of the working timetable period, **that the working timetable is up to date**, taking into account capacity allocated through the rolling planning process referred to in Article 33, capacity allocated through the ad hoc process referred to in Article 34, changes to capacity rights in accordance with Article 39 and rescheduling in the context of disruption management and crisis management in accordance with Article 41.

Article 31

Capacity allocation through framework agreements

- 1. An applicant shall have the right to request infrastructure capacity over a period of time exceeding one working timetable period. ~~Without prejudice to Articles 101, 102 and 106 TFEU, the infrastructure manager shall allocate such capacity through framework agreements concluded with that applicant, subject to paragraph 3 and paragraph 4.~~

Framework agreements shall specify the capacity rights granted in the form of a capacity specification as referred to in Article 26(1)(a). They may not include capacity rights in the form of a train path.

Member States may require prior approval of framework agreements by the regulatory body. *In the case of framework agreements involving cross-border traffic, the relevant regulatory bodies shall coordinate.*

- *1a. Infrastructure managers shall indicate the capacity that they plan to reserve for allocation through framework agreements in the planning documents of the strategic capacity planning. Without prejudice to Articles 101, 102 and 106 TFEU, the capacity reserved for framework agreements in those planning documents shall be allocated by the infrastructure manager to applicants through such agreements, subject to paragraph 3 and paragraph 4. This shall not prevent infrastructure managers from allocating the requested capacity through framework agreements in cases where such capacity is not reserved in the planning documents, subject to paragraph 4.*
- *1b. Framework agreements may be concluded between several infrastructure managers and an applicant in case they cover more than one network.*
- 2. An applicant who is a party to a framework agreement shall request the conversion of the capacity specifications included in the framework agreement into a corresponding train path in accordance with that agreement. *This conversion shall be carried out in accordance with Article 26(2).*
- 3. Infrastructure managers shall ~~conclude~~*ensure that* framework agreements ~~only~~ ~~where the capacity right requested is~~ *are* consistent with the ~~planning documents of the~~ strategic capacity planning referred to in Article 11(2). Infrastructure managers shall indicate the capacity that they plan to reserve for allocation through framework agreements in these planning documents ~~following:~~
(a) The planning documents related to strategic capacity planning as referred to in Article 11(2);
(b) The strategic guidance and its possible binding elements where Member States have provided such guidance in accordance with Article 3a.

Neighbouring infrastructure managers shall coordinate their strategic capacity plannings on available capacity for cross-border framework agreements.

- 4. Framework agreements shall not be such as to preclude the use of the relevant infrastructure by other applicants or services. For this purpose, infrastructure managers shall set the maximum shares of total capacity that can be allocated through framework agreements and include these in the network statement.
- 5. Framework agreements shall allow for the amendment of their terms to enable better use to be made of the railway infrastructure, without prejudice to Article 39 and Article 40.
Other changes to capacity rights allocated through framework agreements shall be subject to a penalty in accordance with Article 40.
- 6. ~~Changes to capacity rights allocated through framework agreements shall be subject to compensation in accordance with Article 40, except for the situation referred to in paragraph 5.~~
- 7. Framework agreements shall, in principle, cover the period indicated in section 5 of Annex I. The infrastructure manager may agree to a shorter or longer period in specific cases. Any period longer than the period indicated in ~~point~~**section** 5 of Annex I shall be justified by the requirement of dedicated investments by new entrants or by the substantial novelty of the service, ***providing significant improvement of service quality.***
- 8. For services using specialised infrastructure referred to in Article 24, which requires substantial and long-term investment, duly justified by the applicant, framework agreements may be concluded for a period of 15 years. Any period longer than 15 years may be agreed only in exceptional cases, in particular where there is large-scale and long-term investment and where such investment is covered by contractual commitments including a multiannual amortisation plan.
- 9. Infrastructure managers shall include capacity allocated through framework agreements in the capacity model referred to in Article 17 and in the capacity supply plan referred to in Article 18.
- 10. While respecting commercial confidentiality, the general nature of each framework agreement shall be made available to any interested party.

- 11. Based on the experience of regulatory bodies, competent authorities and railway undertakings, *infrastructure managers* and based on the activities of the ENRRB, the Commission may adopt an implementing acts setting out the details of *detailed rules regarding* the procedure and criteria to be followed for *concluding framework agreements, the form and the content of such agreements to ensure* the uniform application of this Article and of Article 33. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Article 32

Capacity allocation through the annual allocation process

- 1. ~~The infrastructure manager shall establish the first operational version of the working timetable for a given working timetable period on the basis of the following:~~
 - (a) ~~requests for capacity rights received in the annual allocation process;~~
 - (b) ~~capacity rights relating to the working timetable period concerned and granted through framework agreements in accordance with Article 31;~~
 - (c) ~~capacity rights relating to the working timetable period concerned and granted through the rolling planning process in accordance with Article 33.~~
- 2. The infrastructure manager shall allocate capacity through simultaneous capacity allocation, with a view to meeting, to the extent possible, all requests for infrastructure capacity referred to in ~~paragraph 1~~**Article 30(1)**, subject to paragraphs 5 and 63, 4 and 5 of **this Article**. The infrastructure manager shall take into account, to the extent possible, all constraints on applicants, including the economic effect on their business.
- 3. ~~In the event of a conflict between two or more capacity requests~~**accordance with Article 18 and Article 20**, the infrastructure managers shall first attempt to resolve the conflict through the consensual consultation mechanism referred to in Article 36~~manager may accept or refuse requests for capacity rights not consistent with the capacity supply plan.~~

If the consensual dispute resolution mechanism referred to in paragraph 3 has not resolved *Where a request is not consistent with* the capacity *conflict supply plan*, the infrastructure managers~~manager shall have the right, within reasonable limits, to propose~~

infrastructure capacity that differs from that which was requested, and to modify the capacity supply plan, or both. In such cases, the infrastructure manager shall apply the formal conflict resolution mechanism criteria and procedures referred to in Article 3720(1).

In accordance with Article 18 and Article 20 When accepting requests not consistent with the capacity supply plan, the infrastructure manager shall aim to maintain the overall balance between the elements of the capacity supply plan listed in Article 18(6) and, in the event of conflict with other requests, give priority to requests that are consistent with the pre-planned capacity defined in the capacity supply plan. As a result, the infrastructure manager may either accept or refuse requests that are not consistent with the, in particular the pre-planned capacity supply plan.

When accepting refusing requests not consistent with the capacity supply plan, the infrastructure manager shall aim to maintain the overall balance between the elements of the capacity supply plan listed in Article 18(6), without delay, inform the applicant concerned of its intention to refuse a request. The latter shall have the right to lodge a complaint with the regulatory body.

Infrastructure managers shall inform at least every year the regulatory body of all capacity requests received that did not fit the parameters of the available capacity as defined in the capacity supply plan, regardless of whether they were accepted or refused. On the basis of this information the regulatory body may issue an opinion, which may recommend to the infrastructure manager to amend the capacity model.

- 4. *In the event of a conflict between two or more capacity requests, the infrastructure managers shall first attempt to resolve the conflict through the consensual consultation mechanism referred to in Article 36.*
- 5. *When refusing requests not consistent with If the consensual dispute resolution mechanism referred to in paragraph 3 has not resolved the capacity supply plan conflict, the infrastructure manager shall, without delay, inform the applicant concerned of its intention to refuse a request. The latter managers shall have the right to lodge a complaint with the regulatory body apply the formal conflict resolution mechanism referred to in Article 37.*

- 6. Capacity rights granted through the annual allocation process may comprise:
 - (a) train paths;
 - (b) capacity specifications.

Infrastructure managers shall convert capacity rights granted in the form of capacity specifications to train paths in accordance with section 4 of Annex I.

- 7. The infrastructure manager shall comply with the schedule for the allocation process set out in section 4 of Annex I.
- 8. The infrastructure manager shall consider requests submitted after the initial deadline and prior to the final deadline set out in ~~point~~**section 4** of Annex I. ~~In such cases, the infrastructure managers shall **and** allocate **the** capacity rights in accordance with section 4, point 2 of Annex I on the basis of the first come, first served principle.~~
- 9. For requests for the working timetable received after the initial deadline, which cannot be accommodated either with residual capacity reserved for the working timetable, or with the available unplanned capacity, the infrastructure manager shall try to offer alternatives via a different itinerary.
- 10. The infrastructure manager shall consult interested parties on the draft working timetable. Interested parties shall include all those who have requested infrastructure capacity and other parties who wish to have the opportunity to comment on how the working timetable may affect their ability to procure rail services during the working timetable period.
- 11. The infrastructure manager shall take appropriate measures to deal with any concerns that are expressed.

Article 33

Capacity allocation through the rolling planning process

- 1. Infrastructure managers shall allocate capacity through the rolling planning process *at least to rail freight services* in accordance with the deadlines set out in ~~point~~**section 6** of

Annex I. Infrastructure managers shall reserve capacity for this purpose in the capacity supply plan referred to in Article 18.

Without prejudice to Articles 101, 102 and 106 TFEU, the capacity reserved for rolling planning in the planning documents shall be allocated by the infrastructure manager to applicants through the rolling planning process. This shall not prevent infrastructure managers from allocating the requested capacity through rolling planning in cases where such capacity is not reserved in the planning documents. The rolling planning process shall not be such as to preclude the use of the relevant infrastructure by other applicants or services.

- 2. Capacity rights granted through the rolling planning process may comprise:
 - (a) train paths or capacity specifications for all running days during the working timetable period comprising the first running day included in the request;
 - (b) capacity specifications for all running days beyond the working timetable period comprising the first day included in the request for a maximum period specified in ~~point~~**section** 6 of Annex I.

Infrastructure managers shall convert capacity rights granted in the form of capacity specifications to train paths in accordance with section 6 of Annex I.

- 2a. *Infrastructure managers and applicants may jointly decide to amend the capacity specifications granted through the rolling planning process to enable a better use of the railway infrastructure. Those amendments shall not be considered as changes to capacity rights subject to a penalty pursuant to Article 40. Other changes to capacity rights allocated through rolling planning process shall be subject to a penalty in accordance with Article 40.*
- 3. Without prejudice to Article 18, infrastructure managers shall allocate capacity reserved for the rolling planning ~~allocation~~ process on the basis of the ~~allocation~~**first come, first served** principle set out in ~~section 5, point 2 of Annex I~~.
- 4. In accordance with the rules and procedures set out in Article 20, infrastructure managers ~~may refuse to allocate~~**shall try their utmost to offer alternative** capacity for rolling planning requests if requests are inconsistent with the capacity supply plan adopted

in accordance with Article 18. A refusal shall be communicated to the applicant without delay. *If it is not possible to offer an alternative, the infrastructure manager may refuse to allocate capacity to such inconsistent request.* The applicant shall have the right to lodge a complaint with the regulatory body.

- 5. ~~Infrastructure managers shall inform the regulatory body of all capacity requests received that did not fit the parameters of the available capacity as defined in the capacity supply plan, regardless of whether they were accepted or refused. On the basis of this information the regulatory body shall issue an opinion at least every two years, which may recommend to the infrastructure manager to amend the capacity model.~~
- 6. The infrastructure manager, following a notification to the regulatory body, or following a recommendation by the regulatory body, shall refuse rolling planning requests, if they are of repetitive nature and meet the characteristics of capacity that is normally allocated through framework agreements in accordance with Article 31. The regulatory body shall inform the ENRRB of such decisions and recommendations and the former refusals and shall ensure a coherent application of this paragraph.
- 6a. *Based on the experience of regulatory bodies, competent authorities, railway undertakings, infrastructure managers and of the ENRRB, the Commission may adopt implementing acts setting out detailed rules regarding the rolling planning process to ensure the uniform application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).*

Article 34

Capacity allocation through the ad hoc process

- 1. The infrastructure manager shall respond promptly without undue delay, and in any event within the deadlines set out in section 7 of Annex I, to ad hoc requests for infrastructure capacity submitted at any time during the validity of the working timetable. Information on available spare capacity shall be made available in accordance with Article 9 to all applicants who may wish to use this capacity.

Capacity rights granted through the ad hoc process shall take the form of train paths.

- 2. The allocation of infrastructure capacity in response to ad hoc requests shall be based on the first come, first served principle.

Article 35

Scheduling of capacity restrictions resulting from infrastructure works

- 1. Infrastructure managers shall *adhere to the* schedule capacity restriction resulting from ~~and requirements set out in section 3 and section 8 of Annex I when scheduling~~ infrastructure works ~~not included in the capacity supply plan referred to in~~ in accordance with ~~this~~ Article 18 as soon as possible.
- 2. When scheduling infrastructure works, infrastructure managers shall limit the impact on pre-planned capacity included in the capacity model or in the capacity supply plan to the extent possible.
- 3. ~~If the scheduling of a capacity restriction resulting from infrastructure works requires a change to an allocated capacity right within the meaning of Article 39, the applicant or applicants concerned shall be entitled to the compensation referred to in Article 40.~~
- 4. If the scheduling of a capacity restriction resulting from infrastructure works requires a change to an allocated capacity right within the meaning of Article 39, the infrastructure manager shall do its utmost to provide the applicants concerned with alternative capacity *which allows the railway undertaking to operate the services concerned.*

For that purpose, the infrastructure manager shall inform all applicants concerned about the intended change to the capacity rights concerned. It shall offer to the applicants concerned alternative capacity rights or launch a coordination with the applicants concerned with a view to agreeing on alternative capacity rights.

- 5. ~~When scheduling infrastructure works in accordance with this Article, infrastructure managers shall adhere to the schedule set out in section 3 of Annex I.~~
- 6. Infrastructure managers shall include all capacity restrictions resulting from infrastructure works, *as soon as they are scheduled* in the capacity model ~~and~~ or in the capacity supply plan, *irrespectively* ~~regardless~~ of the moment when they are scheduled.

- - 6a. *The infrastructure manager may derogate from the deadlines laid down in Annex I, section 3, table 3a and the requirement to include capacity restrictions with high or major impact in the capacity model referred to in Article 17 in the following cases:*
 - (a) *there is evidence that, due to unforeseen events, the capacity restriction is necessary to re-establish safe train operations;*
 - (b) *the timing of the restrictions is beyond the control of the infrastructure manager, its contractors or other operators acting on its behalf or;*
 - (c) *if all operational stakeholders concerned agree.*

In those cases, the infrastructure manager shall consult the applicants and the operators of service facilities concerned forthwith and keep them informed at regular intervals on progress towards the re-establishment of normal operations.

Capacity restrictions that imply changes to capacity rights after allocation shall follow the requirements laid down in Article 39 and in section 8 of Annex I.

Article 36

Consensual conflict resolution mechanism and coordination of requests

- 1. Where in the context of simultaneous capacity allocation the infrastructure manager encounters conflicts between different requests for infrastructure capacity, it shall attempt to ensure the best possible matching of all requirements, through coordination of the requests.
 2. Where a situation requiring coordination arises, the infrastructure manager **shall attempt to accommodate all requests through coordination and** shall have the right, within reasonable limits, to propose infrastructure capacity that differs from that which was requested. The infrastructure manager shall define the applicable limits in its network statement. ENIM shall provide guidelines on the definition of such limits and include them in the European framework for capacity management referred to in Article 6.
 3. The infrastructure manager shall attempt, through consultation with the appropriate applicants, to resolve any conflicts. Such consultation shall be based on the disclosure of the following information within a reasonable time, free of charge and in electronic form:

- (a) ~~train paths~~**capacity rights** requested by all other applicants on the same routes;
- (b) ~~train paths~~**capacity rights** allocated on a preliminary basis to all other applicants on the same routes;
- (c) alternative ~~train paths~~**capacity rights** proposed on the relevant routes in accordance with paragraph 2;
- (d) full details of the criteria being used in the capacity-allocation process.

Without prejudice to Article 27(3)(1a) and subject to the agreement of all applicants, the infrastructure manager may establish contact between all applicants potentially involved in the resolution of a conflict to facilitate the coordination of requests.

- 4. The principles governing the coordination of capacity requests for ~~domestic~~ rail services shall be set out in the network statement.
- 5. Where requests for infrastructure capacity cannot be satisfied without coordination, the infrastructure manager shall attempt to accommodate all requests through coordination.
- 6. ~~Without prejudice to the existing appeal procedures and to Article 56 of Directive 2012/34/EU, in the event of disputes relating to the allocation of infrastructure capacity, Member States shall ensure that a dispute resolution system is made available in order to resolve such disputes promptly. That system shall be set out in the network statement for capacity requests for domestic rail services. If this system is applied, a decision shall be reached within a time limit of 10 working days.~~
- 7. In case of multi-network capacity requests, the consensual conflict resolution mechanism set out in paragraphs 1, 2 and 3 shall be performed in accordance with Article 53 and shall involve the Network Coordinator.
- 8. ENIM shall prepare guidelines for the consensual conflict resolution mechanism for multi-network capacity requests and include them in the European framework for capacity management referred to in Article 6.

Formal conflict resolution mechanism on the basis of socio-economic and environmental criteria

- 1. Where the consensual conflict resolution mechanisms referred to in Article 36 has not resolved the capacity conflict, infrastructure managers shall allocate infrastructure capacity in accordance with Article 8 applying an equitable, transparent, and non-discriminatory methodology.

The infrastructure manager shall set out the details of this methodology, including all applicable parameter values, in the network statement taking account of the European framework for capacity management. Parameter values defined by the infrastructure manager shall be subject to coordination in accordance with point (c) of Article 7e of Directive 2012/34/EU.

- 1a. *The methodology referred to in paragraph 1 shall involve the following steps:*
 - (a) *design alternative scenarios to partition the capacity available for different types of rail transport services involving, where possible, the provision of alternative capacity on other routes or alternative timing;*
 - (b) *evaluate and rank the scenarios referred to in point (a) taking into account the operational, socio-economic, and environmental criteria set out in paragraph 3;*
 - (c) *select the highest ranked scenario on the basis of the evaluation referred to in point (b) and amend of capacity model and the capacity supply plan accordingly.*
- 1b. *The evaluation referred to in paragraph 1a, subparagraph (b), shall be based on, but not limited to, the following operational, socio-economic and environmental criteria, subject to the availability of data and taking into account technical and operational considerations and the utilisation of the infrastructure:*
 - (a) *operating cost for operators of rail transport services, and the resulting impact on prices for customers of rail transport services;*
 - (b) *time-related cost for customers of rail transport services;*

- (c) *connectivity and accessibility for people and regions served by the rail transport services, including the quality of connections notably in terms of transfer times and the frequency of rail passenger and freight services;*
- (d) *impacts on external costs of transport, such as accidents, emissions of air pollutants, greenhouse gases and noise produced by rail transport services and by their likely alternatives;*
- (e) *volume of people and freight transported.*

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- 1c. *ENIM shall set out an equitable, transparent and non-discriminatory methodology and establish the list of parameters relating to rail transport services and socio-economic criteria necessary for the assessment referred to in paragraph 1b. Where relevant, it shall set out standard parameter values, or ranges of standard values. ENIM shall ensure that these parameter values are sufficiently tested and calibrated in an operational context.*

ENIM shall include the methodology, the list of parameters and the standard values for the parameters in the European framework for capacity management referred to in Article 6.

The infrastructure manager shall, where relevant, adjust the standard parameter values to take into account local or national circumstances based on accepted approaches and empirical evidence and, where applicable, following Member State requirements in accordance with point (d) of Article 3a(2).

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- 2. In the context of the formal conflict resolution ~~process~~**mechanism**, requests for multi-network capacity rights shall be taken into consideration in their entirety. If, in accordance with Article 8(6)**paragraph 1c**, different national parameters apply, those parameters shall be used for the respective sections.
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- 3. In case of conflicting capacity requests involving rail services with similar characteristics and socio-economic profile, the infrastructure manager shall assign capacity on the basis of an auction or in a way providing access to the largest number of applicants. The latter method shall be applied subject to approval by the regulatory body.

Schedule for capacity allocation processes

- 1. *For the purposes of implementing Articles 31 to 34*, the infrastructure manager and applicants shall comply with the schedule for capacity allocation processes set out *respectively* in sections 4, 5, 6, and 7 of Annex I.
- 2. Infrastructure managers may decide time periods and deadlines for the schedule for capacity allocation *of capacity rights for international trains services* which are different from those referred to in this Regulation and in point 2(b) of Annex VI of Directive 2012/34/EU if ~~the establishment of international train paths in cooperation with infrastructure managers of third countries on a network whose track gauge is different from the main rail network within the Union has a significant impact on the schedule for capacity allocation in general~~.:
 - (a) *the establishment of international train paths in cooperation with infrastructure managers of third countries on a network whose track gauge is different from the main rail network within the Union has a significant impact on the schedule for capacity allocation in general; or*
 - (b) *the establishment of international train paths in cooperation with infrastructure managers of other third countries have a significant impact on the schedule for capacity allocation, provided that this has no impact on the capacity allocation processes of other infrastructure managers of the Union.*
- 3. The Commission shall beis empowered to adopt delegated acts in accordance with Article 71 to amend *the deadlines and durations set out in* sections 4, 5, 6, and 7 of Annex I, *and to adjust, within the limits of the framework laid down in Articles 31 to 34, the milestones and time periods set out therein, where those elements have proven ineffective or have led to major difficulties of implementation, taking into account the experience of infrastructure managers and of applicants, with the objectives to rationalise the capacity allocation processes*, ~~with a view to ensure an efficient allocation process and to address planning, operational, technical and commercial interests of the stakeholders concerned relating to scheduling and capacity allocation.~~

SECTION 4

ADAPTATION AND RESCHEDULING

Article 39

Changes to capacity rights after allocation

- 1. Infrastructure managers may change capacity rights allocated to an applicant on their own initiative only in accordance with this Regulation. Applicants may request changes to allocated capacity at all times. ~~A cancellation shall be considered a specific type of change.~~

In the event of changes to allocated capacity rights, Article 40 shall apply. Infrastructure managers shall, without delay, update the working timetable referred to in Article 30.

- 2. Infrastructure managers ~~and applicants~~ shall limit changes to capacity rights after allocation to the largest extent possible, in accordance with the ~~objectives~~*principles* set out in Article 2(3). *Applicants shall also limit their request for changes to such rights after allocation to the largest extent possible.*
- 3. Changes to capacity rights shall include cases where the infrastructure manager cannot allow the train to run in accordance with the allocated capacity right and has sufficient time to offer the applicant an alternative capacity right after having informed the applicant of the need for the change.
- 3a. *A cancellation of capacity rights shall also be considered as a specific type of change.*
- 3b. *In case of changes to capacity rights, infrastructure managers may indicate different* ~~apply shorter~~ *deadlines for the allocation of capacity* ~~such~~ *rights on a single network and the allocation of multi-network capacity rights compared to the deadlines indicated in section 8 of Annex I.* Infrastructure managers shall provide information on the time necessary to construct a train path in the network statement. ~~This time shall not be longer than the deadlines indicated in section 8 of Annex I.~~
- 4. The rules and procedures to be applied in the event of a change to a capacity right shall take into account the impact of the change to the capacity right ~~on the applicant~~ in operational and commercial terms. For that purpose, ~~changes~~ *infrastructure managers*

shall be categorised *categorise changes* based on their impact in accordance with *and identify category of changes having a significant impact, taking into account the procedures adopted by ENIM on the basis of paragraph 8 of this Article and shall give rise to different levels of compensation referred to in Article 40.*

- 5. In the event of a change to a multi-network capacity right, the infrastructure managers concerned shall make all reasonable efforts to ensure the consistency between the capacity rights over the entire train run.

A cancellation due to force majeure on one network shall be considered as a cancellation due to force majeure for the capacity right along the entire route covered by it.

The infrastructure manager making a change to a multi-network capacity right shall *coordinate and* be responsible for the process ~~to coordinate the allocation of~~ *allocating* an alternative multi-network capacity right with the other infrastructure managers concerned and shall inform the applicant and all parties concerned about the outcome of the coordination. That outcome can be either the allocation of an alternative multi-network capacity right or the information that no alternative capacity right is available.

- 6. For the purpose of this Regulation, failure to use an allocated capacity right by railway undertakings shall be considered equivalent to a cancellation on the day of the train run concerned.
- 7. Where an infrastructure manager changes an allocated capacity right, it shall inform the applicant and the railway undertaking concerned without delay.

The infrastructure manager shall offer alternative capacity rights to the applicant within the deadlines set out in section 8 of Annex I. Where this is not possible, the infrastructure manager shall provide the applicant with relevant information enabling the applicant to place a new request for infrastructure capacity. Where relevant, that information shall make reference to the capacity supply plan referred to in Article 18 and the contingency planning referred to in Article 19.

- 8. ENIM shall prepare and adopt ~~harmonised~~*uniform* procedures to manage changes to capacity rights after allocation and include them in the European framework for capacity management referred to in Article 6.

These harmonised *Those* procedures shall *establish criteria to* differentiate between changes, which have a major *depending on their* impact on applicants and railway undertakings in commercial and operational terms and changes with minor impacts. The, *including* criteria to be used *categorise changes as having a significant impact.*

To categorise a change as major *having a significant impact* ENIM shall take into account, among others, the ability of the railway undertaking to perform the service in accordance with its contractual obligations, delays at departure or changes to the route that result in increase of distance, time of travel, track access charges or other related costs, as well as thresholds for these changes. *More stringent criteria shall apply to changes with major impact.*

- 9. *Within 18 months after the entry into force of this Regulation, the Commission shall be empowered to adopt delegated acts in accordance with Article 71 to amend section 8 of Annex I with a view to ensure efficient adaptation and rescheduling processes taking into account planning, operational, technical and commercial considerations of the stakeholders concerned. In doing so, the Commission shall consider introducing rescheduling windows for smaller works not categorised as having major, high or medium impact and will also take into account the experience of infrastructure managers and of applicants.*

Article 40

Compensation/Penalty for changes to capacity rights

- 1. Where the infrastructure manager or an applicant ~~does~~ not fulfil ~~their~~ its commitments with respect to an allocated capacity right and where this results in a change that is categorised as major *significant* in accordance with Article 39, ~~the party initiating the change~~ *39(4), it shall pay a compensation* *penalty* to the other party. *The penalty shall be effective, proportionate, dissuasive and non-discriminatory.*
- 2. The compensation *penalty* referred to in paragraph 1 shall not be due in cases of ~~force majeure~~:
 - (a) *force majeure;*
 - (b) *where an infrastructure manager withdraws capacity rights in accordance with measures taken by Member States in accordance with Article 10a;*

- (c) *where a capacity right is cancelled in accordance with Article 27(6);*
- (d) *when amending framework agreements in accordance with Article 31(5);*
- (e) *the use of derogations in accordance with Article 35(6a).*

- 3. Following a consultation *The level of the ENRRB, ENIM* ~~penalty~~ shall define harmonised conditions giving rise to compensation. Those conditions ~~be set between a minimum and a maximum level, as determined in Annex IIIa. The infrastructure managers~~ shall take into account the rules set out in Article 39(4) and (8). ENIM shall include these conditions in the European framework for capacity management referred to in Article 6. The ENRRB shall publish an opinion on the conditions defined by ENIM ~~the network statement the levels of penalty to be paid by the infrastructure manager and the applicant, subject to the approval by the regulatory body.~~
- 3a. *The penalty due by an infrastructure manager shall not be differentiated by market segment of the train service. The penalty due by an applicant shall be differentiated by market segment of the train service.*
- 3b. *The penalty may be modulated with a factor ranging from 0.1 to 2 depending on the impact of the change and in accordance with the following criteria:*
 - (a) *the timing of the notification of the change;*
 - (b) *where the change is caused by the infrastructure manager, the quality of the alternative capacity, when alternative capacity exists; or*
 - (c) *where the change is caused by the applicant, whether the capacity can be re-allocated and used by another applicant.*

The maximum modulation may only be applied in situations where the capacity right is cancelled.

- 4. Following the approval of the regulatory body, the infrastructure managers shall ~~Based on the criteria~~ set out in ~~the network statement the levels of compensation to be paid by the applicant~~ *paragraph 3b, ENIM shall develop guidelines for the application of the modulation and include these in the European framework for capacity management referred to in Article 6.*

- **4a.** Following a proposal *The infrastructure manager shall set out in the network statement the modulation levels to be applied to the penalties due* by the infrastructure manager and after consulting applicants and potential applicants, *the applicant, subject to the approval by* the regulatory body shall set the levels of compensation to be paid by the infrastructure manager. The infrastructure manager shall publish that information in the network statement *base itself on the guidelines referred to in paragraph 4.*

~~The levels of compensation shall be such that they provide effective incentives for the infrastructure manager and for applicants to respect the planned use of capacity and minimise disturbances. These levels shall be proportionate and non-discriminatory.~~

- ~~Infrastructure managers and regulatory bodies may set different levels of compensation depending on the impact of the change and whether the capacity can be reallocated and used by another applicant. Those levels shall, in particular, take into account the rules in Article 39(4) and (8), the time left after the change was requested or took place until the time of the train run and the rate of utilisation of the rail infrastructure included in the capacity right.~~
- 5. In the case of **a** multi-network capacity rights, ~~the obligation to pay the compensation to the applicant~~ **right the total penalty** shall apply to the infrastructure manager or managers which is or are responsible for the change to the capacity right, taking into account the capacity right in its entirety and, where more than one infrastructure manager is responsible, the ratio *be calculated by adding the amount of the length of their penalties, including the modulation, in each of the networks, by taking into account*: in the capacity right. The compensation for the entirety of the capacity right shall not exceed the compensation due for the capacity right allocated by the infrastructure manager multiplied by three.
 - (a) *The obligation to pay the penalty to the applicant shall apply to the infrastructure manager which is responsible for the change to the capacity right, taking into account the capacity right in its entirety.*

The penalty due by the infrastructure manager shall be three times the level of the penalty due in its own network but not more than the sum of the penalties for the entire capacity right;

(b) *The obligation to pay the penalty to the infrastructure managers shall apply to the applicant who requested the change, taking into account the capacity right in its entirety. The penalty shall be paid to the infrastructure managers concerned, according to their corresponding part in the multi-network capacity right.*

– 6. *An infrastructure manager or an applicant shall have the right to raise a dispute with the regulatory body responsible related to the change of a capacity right or related to the payment of a penalty. The regulatory bodies shall decide on these disputes related to the reason for the change to a capacity right or delayed compensation and shall take a decision without delay and within one month of collecting all the necessary information to assess the cause of the change. Regulatory bodies shall inform and may consult the ENRRB on such decisions. The ENRRB shall ensure that such decisions are coherent and based on commonly recognized principles.*

– 6a. *In the case of a single-network capacity right, the regulatory body of the Member States of the capacity right shall decide.*

In the case of multi-network capacity rights, the regulatory body responsible for the infrastructure manager acting as the single point of contact according to Article 28 shall decide.

Regulatory bodies shall inform and may consult the ENRRB on such decisions. When consulted, the ENRRB shall advise regulatory bodies with the aim to ensure that such decisions are coherent and based on commonly recognised principles.

– 7. *The Commission may shall adopt implementing acts setting out the conditions giving rise to the payment of compensations, the categorisation of changes to capacity rights and the methodologies to set the levels of compensation. Those implementing acts shall be adopted delegated acts in accordance with the examination procedure referred to in Article 72(3)71 to amend Annex IIIa in view of adapting the minimum and maximum levels of the penalty to the inflation rate. The review of the level of the penalties shall be done every two years by reference to the inflation rate as measured by means of the European Index of Consumer Prices as published by Eurostat. The first review of the level of the penalties shall be done in 2033.*

Rescheduling in the context of disruption management and crisis management

- 1. In the event of a network disruption as referred to in Article 46 or of a crisis situation as referred to in Article 47, the infrastructure manager or managers concerned shall make all possible efforts to reschedule traffic affected by the disruption. For that purpose, infrastructure managers shall allocate rail infrastructure capacity ~~in accordance with the European framework for the cross border coordination of traffic management, disruption management and crisis management~~ *taking into account the guidelines* referred to in Article 44 paragraph 2, on the basis of the contingency plans prepared in accordance with Article 19 and in close coordination with operational stakeholders and, where relevant, other stakeholders concerned.
- 2. ENIM shall develop and adopt guidelines for managing and allocating infrastructure capacity in the event of a network disruption *and include them in the European framework for the coordination of cross-border traffic management, disruption management and crisis management* ~~in a transparent and non-discriminatory way~~. In particular, ENIM shall provide guidelines on the application of the ~~simultaneous capacity allocation process~~ *disruption management* and the first come, first served principle.

~~Where the simultaneous allocation process~~ *When disruption management* applies, ENIM shall provide guidelines on the procedures to *be* applied, involving as appropriate the application of the consensual conflict resolution ~~process~~ *mechanism* referred to in Article 36 and of the formal conflict resolution ~~process~~ *mechanism* referred to in Article 37. ENIM shall include those guidelines in the European framework for ~~capacity~~ *the coordination of cross-border traffic management, disruption management and crisis management* referred to in Article 44.

- 3. ~~When rescheduling, infrastructure managers shall not unilaterally change or cancel existing capacity rights for the purpose of managing disruptions. However, based on the experience of regulatory bodies, infrastructure managers and railway undertakings and on the activities of ENIM and the ENRRB, the Commission may adopt an implementing act setting out the criteria and procedures for rescheduling, including unilateral changes to allocated capacity rights by infrastructure managers for the purpose of managing network~~

~~disruptions. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 72(3).~~

- - 4. Infrastructure managers and applicants may conclude, on a voluntary basis, agreements providing for a replacement of certain capacity rights in the event of a network disruption. Such agreements shall be mentioned in the contingency plan referred to in Article 19.
 - 5. In the case of a network disruption affecting traffic on more than one network, the infrastructure managers concerned shall coordinate the allocation of alternative capacity in accordance with Article 53 and ~~with~~*take into account* the European framework for the ~~cross-border~~ coordination of *cross-border* traffic management, disruption management and crisis management referred to in Article 44.

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• CHAPTER III

TRAFFIC, DISRUPTION AND CRISIS MANAGEMENT

Article 42

Traffic management, disruption management and crisis management

- - 1. Infrastructure managers shall perform traffic management in accordance with this Regulation and Directive (EU) 2016/797 and the specifications laid down in implementing acts adopted under that Directive.

For that purpose, infrastructure managers shall perform:

- (a) traffic management during normal operating conditions involving the management of incidents resulting in limited deviations from the working timetable;
- (b) disruption management to address significant disturbances to network operations requiring concerted action in accordance with Article 46;
- (c) traffic management during crisis situations as set out in Article 47.

- 2. ~~In the event of large-scale crisis situations, both within and beyond the transport sector, Member States may implement measures derogating from the rules applicable in normal situations in accordance with Article 47. In such cases and where relevant, infrastructure managers shall adopt and apply special rules and procedures, subject to the conditions specified in Article 47.~~
- 3. When managing traffic, infrastructure managers shall adhere to the principles set out in Article 2.

In particular, infrastructure managers shall minimise disturbances and their impact on rail traffic and shall:

- (a) ensure a fast and coordinated reaction to disturbances, in particular in the event of network disruptions and crisis situations;
- (b) stabilise and optimise rail traffic during the entire duration of network disruptions and crises;
- (c) provide relevant, accurate and up-to-date information to operational stakeholders and to other concerned parties, in particular authorities in charge of managing crisis situations outside the rail sector. This information shall be provided by the appropriate means, including those referred to in Article 62.

Article 43

Rules and procedures for traffic management and disruption management

- 1. Infrastructure managers shall put in place rules and procedures to manage deviations of train movements from the working timetable. Those rules and procedures shall be published in the network statement referred to in Article 27 of Directive 2012/34/EU and shall cover traffic management in the situations set out in Article 42(1), points (a), (b) and (c) of this Regulation.
- 2. The rules and procedures referred to in paragraph 1 shall aim at minimising the overall impact of deviations from the timetable on *all types of* rail traffic, taking into account the needs of all types of transport. The *principles rules and procedures* may involve priority rules for the management between the different types of traffic and the specific procedures, criteria and targets to be applied in an optimisation-based approach

that relies on the optimisation of a target function, such as the minimization of the delay minutes or of the time to return to normal operations, rather than explicit priority rules.

- 3. In the event of a disruption to train movements caused by technical failure or accident, the infrastructure manager shall take all necessary steps to restore the situation to normal. To that end, it shall implement ~~at the~~ contingency plan *developed* in accordance with Article 19. In the event of a disturbance which has a potential impact on cross-border traffic, the infrastructure managers concerned shall cooperate with each other to restore the cross-border traffic to normal in accordance with the European framework for the coordination of traffic, disruption and crisis management referred to in Article 44.
- 4. When setting out the rules and procedures referred to in paragraph 1, infrastructure managers shall take ~~the utmost~~ account of the European framework for the coordination of traffic, disruption and crisis management referred to in Article 44. They shall explain in the network statement the reason for any deviation from the common rules and procedures established in the European framework for the coordination of traffic, disruption and crisis management.
- 5. In cases of force majeure, and, where absolutely necessary, on account of an incident making the infrastructure temporarily unusable, allocated capacity rights may be withdrawn without warning for as long as is necessary to repair the system *whilst at the same time making the utmost efforts to provide possible alternatives*.

The infrastructure manager may, if it deems this necessary, require railway undertakings to make available to it the resources which it considers are the most appropriate to restore the situation to normal as soon as possible.

- 5a. *In case of a capacity cancellation, infrastructure managers shall inform railway undertakings on their time management, on progress of repairs and on possible alternatives to their allocated capacity.*
- 6. Member States may require railway undertakings to be involved in assuring the enforcement and monitoring of their own compliance with the safety standards and rules.

European framework for the coordination of cross-border traffic management, disruption management and crisis management

- 1. *By [22 months of the entry into force of this Regulation], ENIM shall develop and adopt a ‘European framework for the coordination of cross border traffic, traffic management, disruption management and crisis management’ in accordance with ~~the principles referred to in Article 42 at the latest by [12 months after the entry into force of this, laying down common tools, methodologies and procedural arrangements for the coordination between infrastructure managers, railway undertakings and other operational stakeholders, and taking into account the work of the Europe’s Rail Joint Undertaking established under Article 3(1), point (d), of Regulation] (EU 2021/2085). Infrastructure managers shall take the utmost account of those common tools, methodologies and procedural arrangements for the coordination of cross border traffic management, disruption management and crisis management.~~*
- 1a. *When preparing the network statement referred to in Article 27 of Directive 2012/34/EU and Article 5(2) of this Regulation, infrastructure managers shall take the utmost account of the European framework for the coordination of cross-border traffic management, disruption management and crisis management. They shall explain, in the network statement, the reason for any deviation from the guidelines for the coordination established in this framework.*
- 1b. *ENIM shall develop publish a draft of the European framework for the coordination of cross-border traffic management, disruption management and crisis management in cooperation with for consulting ~~ERP and operational stakeholders. ERP and~~ operational stakeholders and interested parties through ~~may submit their replies to~~ the consultation process referred to in Article 54, taking into account the work of the Europe’s Rail Joint Undertaking established in Title IV of Regulation (EU 2012/2085) within three months after the publication of this draft.*
- 2. *ENIM shall submit the final draft for the European framework for the coordination of cross-border traffic management, disruption management and crisis management to the ENRRB within [16 months after the entry into force] of this Regulation. The ENRRB shall provide guidelines submit a recommendation to ENIM on the European framework*

for the coordination between infrastructure managers, railway undertakings and other operational stakeholders of cross-border traffic management, disruption management and crisis management, within three months after receiving the draft prepared by ENIM. ENIM shall take the utmost account of this recommendation when adopting the European framework for the coordination of cross-border traffic management, disruption management and crisis management.

- 3. In particular, The European framework for the cross-border coordination of cross-border traffic management, disruption management and crisis management shall comprise of at least the elements listed in Annex V and shall be updated when necessary to take into account the experience of operational stakeholders as well as the activities of ENIM. When the European framework for the coordination of cross-border traffic management, disruption management and crisis management is updated, ENIM shall consult ERP and operational stakeholders, and shall submit a draft to the ENRRB for recommendation, in accordance with paragraph 1b and 1c.
- 3a. When exercising its powers in relation to the network statement in accordance with Article 56(1) and 56(2) of Directive 2012/34/EU, the regulatory body shall take into account the recommendation on the European framework for the coordination of cross border traffic management, disruption management and crisis management adopted by ENRRB, in accordance with paragraph 1a and without prejudice to the principle of independence of regulatory bodies.
- 3b. The Commission is empowered, in accordance with Article 70b, to adopt implementing acts setting out the European Framework for the coordination of cross border traffic management, disruption management and crisis management, as defined in paragraph 3 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).

Article 45

Coordination of *cross-border* traffic management, disruption management and crisis management

Infrastructure managers shall coordinate traffic management in accordance with Article 53 and on the basis of the European framework for the ~~cross-border~~ coordination of *cross-border* traffic management, disruption management and crisis management referred to in Article 44.

Coordination shall ensure in particular:

- (a) that international rail services operate with minimum disruptions both under regular operations and in disturbed situations;
- (b) that the specific challenges related to cross-border sections resulting, *inter alia*, from limited interoperability in terms of infrastructure, technical equipment and operations, language and training requirements related to staff, administrative or border formalities are properly taken into account;
- (c) an efficient exchange of up-to-date and relevant information between infrastructure managers, applicants, railway undertakings and other operational stakeholders, as well as any EU-level relevant crisis management governance structures as appropriate, including in accordance with Article 62.

Article 46

Network disruptions

- 1. Where an incident results or is likely to result in restrictions to network operations, which require concerted action by operational stakeholders to ensure the best possible management of traffic during the restrictions, the affected infrastructure managers shall assess the likely duration and impact of the incident on the basis of all available information and previous experience, *taking account of the method referred to in paragraph 5a*.

If the estimated *likely* duration and impact meet the criteria for the declaration of network disruptions as set out in Annex VI, the infrastructure managers concerned shall declare a network disruption and implement the measures laid down in Article 43.

- 2. Where the ~~incident~~**network disruption** has, or is likely to have, impacts on more than one network, the **manager of the** infrastructure manager ~~where the incident on which the network disruption~~ took place shall declare a multi-network disruption and coordinate actions in accordance with ~~Articles 44, 45 and 53~~**Article 45, while taking account of the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 44.**
- 2a. **Where the network disruption has cross-border impact, and is resulting in a partial or a total interruption of services for more than 15 days, the infrastructure manager shall provide an incident report to the Network Coordinator as soon as possible after the declaration of the disruption made pursuant to paragraph 1 or 2, and provide an update every 30 days during the entire duration of the disruption.**

The incident report shall include information on all operational measures undertaken to ensure alternative routes and the restoration of regular services.

The Network Coordinator shall submit the incident report to ENIM and the relevant European Coordinators and, upon request, to the applicants concerned.

- 3. ~~ENIM shall define a harmonised method to estimate the likely duration and impact of network disruptions and include it in the European framework for the coordination of traffic and crisis management referred to in Article 44.~~
- 4. The infrastructure manager shall inform, as soon as possible, interested parties about the unavailability of infrastructure capacity, ~~in particular due to an incident~~.

Member States may require the infrastructure manager to make such information available to the competent authority referred to in Article 9(1) of Directive 2022/2557/UE.

The regulatory body may require the infrastructure manager to make such information available to it, if it deems it necessary.

- 5. The Network Coordinator shall collect information on network disruptions, analyse the response, draw conclusions on the effectiveness of the management of such incidents and, consult operational stakeholders, **taking into account the guidelines adopted by**

ENIM in accordance with Article 5454(1), and report to ENIM and the *Advisory Performance Review Body Panel*.

- **5a.** *ENIM shall take into account the conclusions of the Network Coordinator on network disruptions when updating the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 44.*
- **5b.** *ENIM shall define a method to estimate the likely duration and impact of network disruptions on traffic, define the minimum content of the incident report and provide a template for the incident report. ENIM shall include that method, minimum content and template in the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 44. Infrastructure managers shall take account of that method, minimum content and template.*
- **6.** ~~The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to amend Annex VI with a view to ensure an effective and efficient management of network disruptions, taking into account planning, operational, technical and commercial considerations of the stakeholders concerned.~~

Article 47

Crisis situations

- 1. In cases of crises *or imminent risk of a crisis occurring* related to public safety, health epidemics, natural disasters, ~~environmental, defence and security crises, and environment~~ that have or are expected to have a critical effect on the supply or demand of rail transport services, Member States shall be allowed to apply emergency measures that include, by way of derogation from the rules of this Regulation *and from the rules related to the allocation of rail infrastructure capacity laid down in section 3 of Chapter IV of Directive 2012/34/EU*:
 - (a) the cancellation of capacity rights without ~~compensation~~*penalty in accordance with Article 40*;

- (b) alternative principles, rules and procedures for capacity management, ~~in particular for the allocation of scarce infrastructure capacity;~~
- (c) alternative procedures for traffic management;
- (d) the use of alternative routes;
- (e) the amendment of capacity supply plans.

The Member State concerned shall ensure that the emergency measures follow to the extent possible the principles on capacity and traffic management set out in this Regulation and that they make use of existing *contingency* plans prepared in accordance with Article 19. ~~They~~*It* shall coordinate such emergency measures with other Member States *in accordance with Article 53a.*

The content and the duration of emergency measures shall be limited to what is strictly necessary and proportionate to address the crisis situation in question.

- 2. The Member State concerned shall inform the Commission and ENIM without delay of its decision to apply emergency measures, *and of the repeal of such measures*, and shall provide a justification and a description of those measures and the expected duration of their application. ~~If applicable~~*Where [Regulation establishing a framework of measures on the emergency and resilience of the internal market] applies*, the Member States~~State concerned~~ shall also notify the ~~Commission and the central liaison offices as foreseen under~~*office designated by that Member State pursuant to Article 8 of the [5] of that* Regulation on a ~~Single Market Emergency Instrument~~*of the measures adopted pursuant to this Article.*
- 3. The ~~infrastructure manager shall appoint a Focal point in the meaning of~~*points appointed in accordance with Article 60*, which shall provide information to the Commission, ENIM, other infrastructure managers, *the competent authority referred to in Article 9(1) of Directive 2022/2557/UE*, and other interested parties about the emergency measures and shall help coordinate such measures.
- 4. Where emergency measures have a significant impact on cross-border traffic, infrastructure managers shall coordinate between themselves in accordance with ~~Articles 53 and 54~~*Article 53, while taking into account the guidelines adopted by ENIM in*

accordance with Article 54(1). When performing coordination through dedicated coordination structures in accordance with Article 53(2)(a), the Commission and the Member States concerned shall be involved.

- 5. *Where emergency measures have a significant impact on cross-border traffic and* at the request of the Commission, regulatory bodies and the ENRRB shall provide their opinion on the emergency measures to the Commission within the deadline set by the latter. The Commission may adopt decisions requiring a Member State to repeal the emergency measures, if they are deemed not to be necessary.
- 6. Member States shall provide updated information where necessary or upon the request of the Commission. Member States shall provide all the information required by the Commission about the emergency measures within the deadlines set by the latter.
- 7. Public authorities in charge of managing crisis situations, including the military, civil protection agencies, and others, may organise exercises simulating crisis situations falling within the scope of this Article. In such cases, the infrastructure manager shall allocate capacity as needed, including the cancellation of allocated capacity rights if necessary. The public authorities concerned shall ~~compensate the applicants concerned in accordance with~~ *be subject to a penalty for changes to capacity rights, aligned with the principles in* Article 40.

Article 48

Exchange of information on traffic management

- 1. All operational stakeholders directly involved in the operation of a rail transport service shall have the right of access to the information concerning this rail transport service set out in Annex VIII.

The parties concerned may only use this information for the purposes of this Regulation and for the purposes of Directive (EU) 2016/797 and implementing acts adopted under that Directive, unless specified otherwise in contractual agreements.

- 2. The information shall be made accessible in accordance with Article 62.
- 3. The Commission ~~shall be~~ is empowered to adopt delegated acts in accordance with Article 71 to amend Annex VIII with a view to ensure that it reflects any changes to the

technical specifications for interoperability laid down in the relevant implementing acts that are adopted in accordance with Directive (EU) 2016/797 and taking into account planning, operational, technical and commercial considerations of the stakeholders concerned.

• **CHAPTER IV**
 PERFORMANCE REVIEW

Article 49

General principles for performance review

- 1. In accordance with Article 7f, point (d) of Directive 2012/34/EU, ENIM shall monitor and benchmark performance of rail infrastructure services *provided by infrastructure managers*, taking into account the general *objectivesprinciples* set out in Article 2 of this Regulation. ~~Rail infrastructure managers~~ *Where relevant, ENIM shall also monitor thecooperate with the European Coordinators, the Advisory* Performance of rail transport services *Panel and ENRRB for that purpose.*
- 2. ~~For this purpose,~~ Infrastructure managers shall set out their own performance targets *defined in accordance with Article 50(2)(c)* in the *business* plan referred to in Article 8(3) of Directive 2012/34/EU, taking into account any *objectivestargets* set out in the contractual agreements referred to in Article 3030(2) of that Directive. ~~They shall put in place and perform procedures to monitor and report on progress towards the achievement of the~~ *These* targets, ~~to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance.~~ These procedures shall ~~take into account the European framework for performance review referred to~~ *include the target values set out* in Article 50 of this 19(1), points (a) and (b) of Regulation. ~~Infrastructure managers shall explain in the network statement the reason for any deviation from the common procedures established in the European framework for performance review (EU) 2024/1679.~~

- *2a. Infrastructure managers shall put in place and perform procedures to monitor and report on progress towards the achievement of the targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance. These procedures shall take into account the European framework for performance review referred to in Article 50 of this Regulation.*
- *3. ENIM shall cooperate with the European Coordinators on performance reviews in accordance with the operational requirements for the European Transport Corridors set out in Article 18 of [new TEN-T Regulation].*
- *3a. Where related to their own performance targets, infrastructure managers shall also monitor the performance of rail transport services.*

Article 50

European framework for performance review

- *1. ENIM shall set up and implement by [12] ~~By~~ /26 months after of the entry into force of this Regulation], ENIM shall develop and adopt a ‘European framework for the review of performance. This framework shall take review’ laying down common tools, methodologies and procedural arrangements taking into account in particular the principles defined in Article 2(3), Article 8(4), and Article 42(3) and the operational requirements priorities set out in Article 19 of Regulation (EU) 2024/1679, and the implementing acts adopted under Article 15(6) of Directive 2012/34/EU. Infrastructure managers shall take the utmost account of those common tools, methodologies and procedural arrangements for the performance objectives and target values set out in [Article 18 of the new TEN-T Regulation] review.*
- *1a. When preparing the network statement referred to in Article 27 of Directive 2012/34/EU and Article 5(2) of this Regulation, infrastructure managers shall take the utmost account of the European framework for performance management. They shall explain, in the network statement, the reason for any deviation from the common tools, methodologies and procedural arrangements established in this framework.*
- *1b. ENIM shall publish a draft of the European framework for performance review for consulting ERP and operational stakeholders. ERP and operational stakeholders*

may submit their replies to the consultation within three months after the publication of this draft.

- 1c. ENIM shall submit a final draft for the European framework for performance review to the ENRRB within [20 months after the entry into force of this Regulation]. The ENRRB shall submit a recommendation to ENIM on the European framework for performance review, within three months after receiving the draft prepared by ENIM. ENIM shall take the utmost account of this recommendation when adopting the European framework for performance review.*
- 2. The European framework for performance review shall cover at least the performance areas set out in Annex VII. In particular, it shall include:*

 - (a) a list of priority performance issues to be addressed in the performance areas set out in Annex VII;*
 - (b) performance indicators allowing to monitor progress on the performance issues, including methodology and data requirements to calculate such indicators;*
 - (c) criteria and procedures to define performance objectives targets at the level of infrastructure managers;*
 - (d) procedures to monitor and review the elements in points (a) to (c) as well as the implementation of corrective measures and the achievement of the performance objectives referred to in paragraph 4.targets.*
- 3. On the basis of paragraph 2, point (d), ENIM The European framework for performance review shall regularly review be updated when necessary to take into account the experience of operational stakeholders as well as the activities of ENIM. When the European framework for performance review is updated, ENIM shall consult ERP and operational stakeholders, and the results of its implementation and shall propose appropriate changes submit a draft to the framework ENRRB for recommendation, in accordance with paragraph 1b and 1c.*
- 4. Infrastructure managers shall take the utmost account of the European framework for performance review when fulfilling their functions. In particular, infrastructure managers shall include the objectives defined in accordance with paragraph 2 point (e) of this Article*

~~in the business plan referred to in Article 8(3) of Directive 2012/34/EU. These objectives shall include the target values set out in [Article 18(1), points (a) and (b) of new TEN-T Regulation].~~

- 4a. When exercising its powers in relation to the network statement in accordance with Article 56(1) and 56(2) of Directive 2012/34/EU, the regulatory body shall take into account the recommendation on the European framework for performance management adopted by ENRRB, in accordance with paragraph 1a and without prejudice to the principle of independence of regulatory bodies.*
- 5. The Commission ~~may~~ is empowered, in accordance with Article 70b, to adopt implementing acts; setting out ~~detailed rules on the elements~~ the European Framework for performance review, as defined in paragraph 2, ~~points (b) to (d), of this Article. Those implementing acts shall be adopted~~ in accordance with the ~~advisory examination~~ procedure referred to in Article 72(2). In doing so ~~72(3), the~~ Commission shall take into account the work done by ENIM in accordance with paragraph 3 and any recommendations of the performance review body.

Article 51 **European performance review report**

- 1. Without prejudice to Article 15 of Directive 2012/34/EU and Article 3 of ~~Commission to the~~ the implementing Regulation (EU) 2015/1100¹³ ~~acts adopted on the basis thereof~~, ENIM shall prepare and publish by [24] 38 months after the entry into force of this Regulation] a European performance review report on the basis of the European framework for performance review referred to in Article 50 of this Regulation. **ENIM shall prepare** and publish ~~it~~ **an update of the report** every year.
- 2. The **Advisory Performance Review Body Panel** shall prepare a self-standing section of the report providing its assessment of the performance of rail infrastructure services and rail transport services, recommendations on performance issues to be addressed with

¹³ ~~Commission Implementing Regulation (EU) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015, p. 1).~~

priority and recommendations on measures to improve performance. ***ENIM shall include that section in the report referred to in paragraph 1.***

- 3. The ***European*** performance review report shall cover at least the lines included in the European Transport Corridors ~~referred to in Regulation [new TEN-T Regulation]~~ and shall include the information required by ~~[referred to in Article 53(3)(g)54(3)(g)] thereof of the Regulation (EU) 2024/1679~~. The information presented shall be sufficiently detailed in terms of geographical scope and ~~should~~ cover a sufficiently long period of time to allow for meaningful interpretations.
- 4. The ***European*** performance review report shall include a dedicated section on the performance of coordination between infrastructure managers in accordance with Article 53 and on the consultation mechanism referred to in Article 54 of this Regulation.

Article 52

Advisory Performance Review BodyPanel

- 1. In accordance with the procedure referred to in Article 73(3)72(3), the Commission may set up or designate an impartial and competent body to act as ~~an *Advisory Performance Review BodyPanel*. The Advisory Performance Panel shall be established as an independent and impartial, expert panel. Its members shall be appointed on the basis of merit as well as to ensure a mix of skills and experience relevant to rail capacity, traffic, disruption and crisis management. The Advisory Performance Panel shall consist of not more than nine members. The Members shall be nominated by the Commission. It shall meet at least four times per year. The work of the Advisory Performance Panel shall be financed by the Commission.~~

The Members of the Advisory Performance Panel are appointed for a term of four years and their mandate can be renewed two times.

- 2. ~~The Performance Review Body shall provide advice to the Commission and the European Coordinators on matters related to the performance of rail infrastructure services and rail transport services, on request by the Commission or the European Coordinators.~~
- 3. The ***Advisory Performance Review BodyPanel*** shall perform the following tasks:

- (a) providing recommendations to ENIM as regards the establishment and review of the European framework for performance review referred to in Article 50, including on performance areas, performance issues to be addressed under each of the performance areas, harmonisation of methodologies, processes, criteria and definitions for the collection and analysis of data related to performance and performance indicators;
- (b) providing recommendations to ENIM, the ENRRB, infrastructure managers, applicants, regulatory bodies, Member State authorities, and, where relevant, other stakeholders for corrective measures, on capacity management, traffic management, disruption management and crisis management;
- (c) reviewing the results of the draft European performance report and, preparing the self-standing section referred to in Article 51(2);
- (d) providing opinions and recommendations relating to the performance of rail infrastructure services in relation to the indicative rail infrastructure development strategy referred to in Article 8(1), the business plan referred to in Article 8(3), the contractual agreements referred to in Article 30(2) and the performance scheme referred to in Article 35 of Directive 2012/34/EU;
- (e) providing advice to the European Coordinators on matters related to the performance of rail infrastructure services and rail transport services.

- 4. ~~The addressees of opinions and recommendations referred to in paragraph 3 shall provide responses to the Performance Review Body within the deadlines set by the latter.~~
- 5. ENIM, the Network Coordinator, infrastructure managers, regulatory bodies, the ENRRB and, where relevant, other stakeholders shall cooperate with the *Advisory Performance review bodyPanel*, in particular by providing information related to performance on their own initiative or upon the body's request and make the utmost effort to take into account its recommendations in their work on rail performance management.
- 6. The *Advisory Performance review bodyPanel* shall respect the confidentiality of business secrets when handling information provided by relevant stakeholders or the Commission.

• **CHAPTER V**

EUROPEAN NETWORK FOR COORDINATION

Article 53

Coordination between infrastructure managers

- 1. When reference is made to this Article, infrastructure managers shall coordinate between themselves and with other relevant stakeholders in relation to the responsibilities and tasks entrusted to them in this Regulation.
- 2. ~~Infrastructure managers shall coordinate at least on the issues set out in Annex IX and shall comply with the specific coordination requirements set out in the Articles referenced therein.~~
- 2a. Infrastructure managers shall in particular:
 - (a) establish organisational structures, procedures and tools, as appropriate, including the digital tools referred to in Article 62;
 - (b) coordinate at the most appropriate geographical level, *including at the level of the European Transport Corridors*, involving the entities which are best placed to achieve effective and efficient outcomes, in line with the principle of subsidiarity;
 - (c) cooperate with other infrastructure managers through the designated focal points referred to in Article 60;
 - (d) involve ENIM or the Network Coordinator, as appropriate, on matters having Union relevance. ~~Coordination between infrastructure managers may be implemented at more than one level, in particular for matters where coordination is required both at Union level and within a more specific geographical scope;~~

- (e) appoint a leading entity, whenever coordination activities involve multiple actors, which shall report to ENIM and shall be responsible for organising consultation activities in accordance with Article 54;
- (f) refer to ENIM cases where agreed outcomes cannot be reached at first instance;
- (g) review the performance of coordination activities in accordance with Chapter IV.
- ***2b. Coordination between infrastructure managers may be implemented at more than one level, in particular for matters where coordination is required both at Union level and within a more specific geographical scope.***
- ***2c. Where ENIM or the Network Coordinator are involved in the coordination between the infrastructure managers, they shall ensure that cross-border aspects are well taken into account.***
- 3. Coordination shall cover all ~~lines~~~~sections~~ and nodes which are part of the European Transport Corridors set out in Article 7 of and Annex III to [new TEN-T Regulation]. Infrastructure managers may extend coordination to additional lines subject to an agreement between all infrastructure managers concerned.
- 4. Coordination between infrastructure managers relating to the allocation of multi-network capacity rights in accordance with Article 2928 shall cover the entire networks of the infrastructure managers which are members of ENIM.
- ~~5. The Commission shall be empowered to adopt delegated acts in accordance with Article 71 to amend Annex IX with a view to ensure an efficient coordination between infrastructure managers, taking into account planning, operational and commercial considerations of all stakeholders concerned, and in the light of experience gained in the implementation of this Regulation.~~

Article 53a
Coordination between Member States

- 1. *For the purpose of promoting international passenger and rail freight traffic, Member States shall coordinate to ensure consistency between their respective strategic*

guidance and national requirements, in accordance with Article 3a.

They shall in particular define and publish procedures and timings for their coordination

- 2. *For the purposes of paragraph 1, Member States shall in particular:*
 - (a) *coordinate at the most appropriate geographical level and, to the extent possible, in the context of existing fora, to achieve effective and efficient outcomes, in particular at the level of European Transport Corridors;*
 - (b) *involve the European Coordinators, as appropriate, and in particular when making progress on the operational priorities set out in Article 19 of Regulation (EU) 2024/1679;*
 - (c) *invite the European Commission for matters where coordination is required at Union level or where otherwise relevant.*

Article 54

Consultation mechanism for European and cross-border matters

- 0. *Infrastructure managers shall ensure an appropriate and regular consultation of interested parties on European and cross-border matters. For this purpose, they shall take into account the guidelines developed by ENIM referred to in paragraph 1.*
- 1. ENIM shall prepare, adopt and implement guidelines to ~~ensure~~ *with the purpose of ensuring* appropriate and regular consultation of interested parties *regarding European and cross-border matters* and include them in the European framework for capacity management referred to in Article 6, the European framework for the ~~cross-border~~ coordination of *cross-border* traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50. ~~The process~~ *Those guidelines* shall be developed, *after having consulted the ERP*, and implemented with the support of the Network Coordinator and with the involvement of the ~~designated~~ focal points ~~of~~ *designated by* infrastructure managers ~~referred to in~~ *under* Article 60.
- 2. Where ENIM *prepares and* adopts an opinion or a recommendation, *not related to the European framework for capacity management, the European framework for the*

coordination of cross-border traffic management, disruption management and crisis management, the European framework for performance review, which is likely to have a substantial impact on railway undertakings, other applicants, other operational stakeholders and interested parties, it shall publish a draft for the consultation of concerned parties. The concerned, including ERP. The parties concerned shall be given an appropriate amount of timesix weeks to provide feedback on the draft decisionopinion or recommendation. Member State authorities shall be involved when requiredwhere necessary.

- 3. ENIM shall take account of the feedback provided by concerned parties *when preparing the guidelines referred to* in accordance with paragraph 21 and when adopting the final opinion or recommendation *referred to in paragraph 2*. Where ENIM fails to take into account significant elements of the feedback provided, it shall provide the reasons for *doing so* thereof.

Article 55

Organisation of the European Network of Infrastructure Managers

- 1. For the purposes of this Regulation, the European Network of Infrastructure Managers (**ENIM**) referred to in Article 7f of Directive 2012/34/EU shall be organised in accordance with this Article.
- 1a. *The members of ENIM shall provide ENIM with the necessary resources to perform its tasks.*
- 2. All rail infrastructure managers which are responsible for lines that form part of the core and extended core TEN-T network, referred to in [Article 6 of and Annex I to new TEN-T Regulation], shall be members of ENIM. *They* Other infrastructure managers that are included in strategic capacity management under Article 12 of this Regulation may be members of ENIM. Every member shall appoint a representative and an alternate.
- 3. Rail Infrastructure managers, which do not meet the criterion defined are not responsible for the lines referred to in paragraph 2 and are thus not members of ENIM, may appoint a non-member representative to participate in the deliberations of ENIM as observers without voting rights. They may submit statements for consideration by ENIM.

- *3a. Infrastructure managers responsible for lines that form part of the core and extended core TEN-T network of States which are members of the European Free Trade Association (EFTA) and of South East European Parties to the Treaty establishing the Transport Community signed by the Union in accordance with Council Decision (EU) 2017/1937 shall have the right to become members of ENIM provided that those States or parties apply this Regulation pursuant to an international agreement concluded with the Union and in accordance with the modalities of participation set out under such agreement.*
- *3b. ENIM may invite, on an ad-hoc basis, rail infrastructure managers of third countries not covered under paragraph 3a which are managing railway lines of the TEN-T core and extended core, as observers.*
- 4. ~~Following the consultation of and the approval by the Commission, ENIM shall adopt and publish its rules of procedure, subject to the approval of the Commission.~~ It shall organise its activities in accordance with ~~thethose~~ rules of procedure.
- 5. ENIM shall take its decisions by a ~~simple~~*two-thirds* majority, ~~unless otherwise provided for. Where specified~~ in the rules of ~~procedure~~*procedures*, *ENIM may take certain decisions by a simple majority*. All members from one Member State shall together have one vote. In the absence of a member *representative*, the alternate shall be entitled to exercise the right to vote.
- 6. ENIM shall meet at regular intervals. It shall elect a Chair from among its members ~~with a two thirds majority of its members~~.
- 7. The Commission shall be a non-voting member of ENIM. It shall support the work of ENIM and facilitate coordination.
- 8. ENIM shall define its work programme. The work programme shall cover at least a period of two years *and five years at most*. ENIM shall consult *ERP*, applicants and other operational stakeholders ~~through the consultation mechanism~~*following the guidelines* referred to in Article 54, on the draft work programme. ~~In addition, it shall consult the European, as well as the~~ Commission, the European Union Agency for Railways ~~and~~, the Europe's Rail Joint Undertaking and, as appropriate, other stakeholders. *The concerned parties shall be given four weeks to provide feedback on the draft work programme.*

Article 55a
European Railway Platform

- 1. *Within six months of the entry into force of this regulation, operational stakeholders, other than infrastructure managers, may submit a proposal to the Commission for establishing the European Railway Platform (ERP) to facilitate their exchanges and consultation with ENIM. The purpose of the ERP is to ensure effective consultation of the sector vis-a-vis ENIM.*

Such proposal shall include the rules of procedure of the platform, setting out working arrangements and criteria for the selection and renewal of its members.

- 2. *The ERP shall allow for a balanced representation of interest of all operational stakeholders other than infrastructure managers.*

The ERP shall be open for participation based on transparent, fair and non-discriminatory criteria.

- 3. *Within two months of receiving a proposal under paragraph 1, the Commission, having heard the opinion of the ENRRB, shall assess whether the proposal complies with the requirements in paragraph 2 and require changes in the proposal as appropriate.*
- 4. *Following the assessment in paragraph 3 and the adoption of any required changes in the proposal, the Commission shall communicate its agreement to the establishment of the ERP.*

After the Commission agreement ERP shall make its rules of procedure publicly available on its website.

- 5. *The establishment of ERP shall be without prejudice to the right of operational stakeholders, other than infrastructure managers, to respond to consultations by ENIM and infrastructure managers on an individual basis.*
- 6. *ERP may also issue own-initiative opinions.*
- 7. *ERP shall address to the Commission an annual report of its activities. This report shall be published.*

Article 56

Responsibilities of ENIM

- - 1. In addition to the tasks laid down in Article 7f of Directive 2012/34/EU, ENIM shall be responsible for all tasks assigned to it in this Regulation. It shall, in particular:
 - (a) adopt the European framework for capacity management referred to in Article 6;
 - (b) adopt the European framework for the coordination of *cross-border traffic management, disruption management* and crisis management referred to in Article 44;
 - (c) adopt the European framework for performance review, referred to in Article 50;
 - (ca) *adopt a common structure for the network statement and a common schedule for consultation, referred to in Article 61;*
 - (d) adopt opinions and recommendations to infrastructure managers in accordance with the provisions of this Regulation and on its own initiative;
 - (e) adopt opinions and recommendations to infrastructure managers in the cases referred to in Article 53(2)(f);
 - (f) *organising*~~organise, with the contribution of the Network Coordinator~~, the coordination between infrastructure managers in accordance with Article 53 *and Article 60.*
 - **1a.** *ENIM shall have no policy-making or regulatory powers.*
 - **1b.** *ENIM may establish working groups.*
 - **2.** ~~When performing coordination through dedicated coordination groups, infrastructure managers shall appoint the entities participating in this group, including focal points appointed by infrastructure managers in accordance with Article 60, the Network Coordinator or both.~~

Article 57

Transparency

- 1. ENIM shall ensure that its membership, methods of operation and all relevant information about its work are made publicly available on its website. It shall include contact details of dedicated coordination groups, established by the infrastructure managers and references to coordination tools and procedures in accordance with Article 53.
- 2. ENIM shall invite ~~the Commission, including~~ the European Coordinators, and, where relevant, representatives of the ***ERP and ERA representatives of the Member States and other bodies***, to its meetings with a view to discuss issues related to the development of rail infrastructure and to ensure cooperation with the European Coordinators, as outlined in ~~[new TEN-T Regulation]~~. ENIM shall provide the information required under ~~[Article 53, third subparagraph of the new TEN-T Regulation]~~. (EU) 2024/1679.

Article 58

Network Coordinator

- 1. ~~The infrastructure managers shall provide ENIM with the necessary resources to perform its tasks. For this purpose, they~~ ENIM shall appoint by ~~[12 no later than six~~ months after the entry into force of this Regulation] an impartial and competent entity to fulfil the functions referred to in Article 59. Such entity ~~will~~ shall be designated as ~~at~~ the Network Coordinator.

~~Prior to the appointment of~~ ***The members of ENIM shall provide*** the Network Coordinator, ~~infrastructure managers shall seek the consent of the Commission regarding the designated entity and the following aspects:~~ ***with the necessary resources to perform its tasks.***

The rules of procedure of ENIM, as referred to in Article 55(4), shall define:

- (a) the terms and conditions for the appointment of the Network Coordinator ***and the withdrawal of the appointment;***
- (b) the ~~conditions of withdrawal of the appointment~~ ***procedure to assigning to it any additional duties and tasks; and***

- (c) the procedure to regularly monitor arrangements for monitoring and assessing its work and to assess whether it has performed its tasks effectively;
- (d) any additional operational duties and tasks of the Network Coordinator.

– 2. The Network Coordinator shall execute its tasks in an impartial, *transparent* and cost-effective manner and shall act on behalf of ENIM. For this purpose, it shall submit to ENIM its annual work programme with respect to the tasks set out in this Regulation as well as an annual report on the implementation of the work programme. *ENIM shall approve the annual work programme and the annual report prior to their adoption.*

Article 59

Tasks and responsibilities of the Network Coordinator

The Network Coordinator shall carry out in support of ENIM the following tasks:

- (a) act as secretariat and prepare ENIM's meetings, documents, decisions and opinions;
- (b) contribute to the preparation of the European framework for capacity management referred to in Article 6, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50;
- (c) contribute to the operational coordination between infrastructure managers in accordance with Article 53;
- (d) identify rules, procedures and tools within the scope of this Regulation and adopted at national or infrastructure manager level which create obstacles for multi-network rail services, as set out in this Regulation, *and propose to ENIM methods to facilitate cross-border rail services;*
- (da) *contribute to the coordination between infrastructure managers concerning strategic capacity planning according to Article 14 by elaborating specific timetable designs facilitating competitive multi-network long-distance train paths;*

- (e) act as a contact point on behalf of infrastructure managers for enquiries related to capacity planning and allocation, in particular regarding potential requests for capacity, for information or contact points related to rail incidents and temporary capacity restrictions;
- (f) act as a first point of contact for stakeholders ~~outside the rail sector~~ interested in using rail services, providing contacts to relevant actors ~~at such as~~ infrastructure managers and other operational stakeholders;
- (g) act as a contact point on behalf of ENIM for applicants and other operational stakeholders on issues not explicitly covered by this Regulation, in particular the launch or change of cross-border rail transport services or organising support for ad hoc activities, in particular to address the crisis situations referred to in Article 47;
- (ga) ***offer services, in particular in terms of digital and IT tools, when requested, to improve rail services and boost trans-European rail traffic.***

Article 60

Focal points for coordination of infrastructure managers

- 1. In order to ensure coordination between infrastructure managers in accordance with Article 53, the infrastructure managers shall designate focal points. The focal point shall act as the central interface between the organisation of the infrastructure manager and the other entities involved in the coordination activities.
- 2. Infrastructure managers shall inform without delay ENIM about any changes in focal points for inclusion in the publications referred to in Article 57(1).

Article 61

Common structure, contents and schedule for network statements

- 1. ENIM shall, ***by [12 months from the entry into force of this Regulation],*** prepare and adopt a common structure for the network statement referred to in Article 27 of Directive 2012/34/EU, which shall take into consideration the information listed in Annex IV to that Directive, Annex IV to this Regulation, and a common schedule for the consultation of interested parties on the draft network statement. Infrastructure managers

shall take the utmost account of this structure and schedule when preparing the network statement.

- ***1a. ENIM shall submit a draft of the common structure for the network statement referred to in paragraph 1 of this Article within [6 months after the entry into force of this Regulation]. The ENRRB shall submit a recommendation to ENIM on this common structure within three months after receiving the draft prepared by ENIM. ENIM shall take account of this recommendation.***
- 2. When preparing the network statement referred to in Article 27 of Directive 2012/34/EU, the infrastructure manager shall ~~the~~ take ***the*** utmost account of the European framework for capacity management ***referred to in Article 6 of this Regulation***, the European framework for the ~~cross-border~~ coordination of ***cross-border*** traffic management, disruption management and crisis management ***referred to in Article 44 of this Regulation*** and the European framework for performance review, referred to respectively in Articles 6, 44 and ***in Article 50*** of this Regulation.
- 3. ~~Where the Infrastructure manager does not comply with paragraph 1 or 2, it~~ managers shall ~~provide a justification~~ ***explain*** in the network statement ***the reason for deviation from the structure and schedule referred to in paragraph 1 and the European frameworks referred to in paragraph 2*** and inform the competent regulatory body and ENIM ***of those reasons***.

Article 62

Digitalisation of capacity and traffic management

- 1. Infrastructure managers shall ensure that capacity management and traffic management processes within the scope of this Regulation are implemented by means of digital tools and digital services.

Capacity management tools used by infrastructure managers shall be compliant with the requirements concerning capacity planning and allocation process laid down in Chapter II of this Regulation. The digital tools shall comply with the requirements defined in the Directive (EU) 2016/797 and the delegated and implementing acts adopted on the basis thereof to ensure interoperability of systems and alignment of data with the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797. Infrastructure

managers may continue to use capacity management tools existing prior to the date of application referred to in Article 77(2)(d) provided that those tools allow infrastructure managers to comply with the abovementioned requirements.

- 2. The digital tools deployed and the digital services provided shall:
 - (a) ~~improve the~~**ensure effective** performance and the quality, including full interoperability, of the services infrastructure managers provide to applicants;
 - (b) ~~improve~~**ensure** the transparency of rail capacity management and traffic management throughout all their phases *including through real-time solutions which shall be elaborated with relevant stakeholders and deployed according to the requirements defined in Directive (EU) 2016/797*;
 - (c) reduce the administrative burden for applicants by requesting each piece of information only once and by providing information or data in a single place, including as regards cross-border services.
- 3. Where the digital tools or of the digital services necessary to support capacity management or traffic management processes need to be covered by technical specifications for interoperability, or where existing specifications covering or partially covering those tools, as provided for by Directive (EU) 2016/797 and the implementing acts adopted under that Directive, need to be amended, ENIM and infrastructure managers shall contribute to the development and maintenance of such specifications in cooperation with **ERA and** the Europe's Rail Joint Undertaking, and through the process referred to in Article 5 of Directive (EU) 2016/797.
- 4. Infrastructure managers shall contribute **to** the work of the Europe's Rail Joint Undertaking on issues that fall within the scope of this Regulation. For this purpose, ENIM and the infrastructure managers shall ~~seek for~~**ensure** appropriate representation in the System Pillar Steering Group and the Deployment Group referred to respectively in Articles 96 and 97 of Regulation (EU) 2021/2085.
- 5. Infrastructure managers, ~~railway undertakings, other applicants~~**operational stakeholders** and, where relevant, the operators of rail service facilities shall exchange digital information related to capacity management and traffic management by means of digital tools and digital services which are based on a harmonised architecture, and which

involve standardised interfaces or common systems in accordance with Directive (EU) 2016/797 and the specifications ~~laid down in implemented acts adopted under that Directive on the basis thereof.~~

In the case of multi-network rail ***services or cross-border*** services, infrastructure managers shall provide digital services and digital information through a single interface or common systems developed and deployed under coordination of ENIM ~~in accordance with paragraph 3.~~

ENIM shall establish a one-stop-shop in order to allow applicants to request multi-network capacity rights in a single place and in a single operation.

- ***5a. Infrastructure managers shall ensure that the digital tools and digital services referred to in paragraph 1 are operational by the deadlines set out in Article 77. The Network Coordinator shall provide common European digital tools and services for capacity and traffic management developed and deployed in accordance with paragraph 3. ERA shall, in accordance with Article 23 of Regulation (EU) 2016/796, monitor the deployment and compliance of the digital systems against the technical specifications for interoperability, coordinate the development and updating of these specifications and assist the Commission in this process.***

• **CHAPTER VI**

**REGULATORY OVERSIGHT OF CAPACITY AND TRAFFIC
MANAGEMENT**

SECTION 1

REGULATORY BODIES

Article 63

Responsibilities of regulatory bodies

- 1. The functions and the powers laid down in Article 56 of Directive 2012/34/EU shall also be exercised with respect to the matters covered by this Regulation. In particular, the regulatory body shall monitor the activities of infrastructure managers as set out in Chapters II to V of *this Regulation* and shall verify compliance with this Regulation on its own initiative and with a view to preventing discrimination against applicants.
- 2. ~~A railway undertaking, an applicant, a potential~~*An* applicant, a national, regional or local authority responsible for *rail* transport *services* shall have the right to appeal to the regulatory body *under the procedure set out* in accordance with Article 56 of Directive 2012/34/EU if it believes it has been unfairly treated, discriminated against or in any other way aggrieved by the infrastructure manager when the latter carried out the activities set out in Chapters II, III, IV and V of this Regulation (~~Management of infrastructure; Traffic and crisis management; Performance review and management; European network for coordination~~).

SECTION 2

~~TASKS AND RESPONSIBILITIES OF THE EUROPEAN NETWORK OF RAIL REGULATORY BODIES~~

~~BODIES~~

Article 64

Cooperation of regulatory bodies within the European Network of Rail Regulatory Bodies (ENRRB)

- 1. For the purpose of fulfilling their responsibilities under this Regulation, the regulatory bodies shall cooperate in the framework of the ENRRB ~~referred to in established under Article 57(1) of Directive 2012/34/EU~~, including through joint consultations and investigations, by adopting opinions or recommendations or through other relevant activities. Regulatory bodies shall provide all the required information to the ENRRB *in accordance with paragraph 6*.

When acting within the scope of this Regulation, the ENRRB shall have the tasks and responsibilities and organise its work as defined in ~~this section 2 of this Chapter~~.

- 2. In the case of a complaint or an own-initiative investigation on a matter falling within the scope of this Regulation and affecting the access to or the use of rail networks in more than one Member State, the regulatory body concerned shall inform the ENRRB and the Commission of the complaint or the investigation.
- 3. A regulatory body may transmit any relevant matter, complaint or investigation to the ENRRB for an exchange of views or for the adoption of an opinion or recommendation.
- 4. When taking decisions on matters *falling within the scope of this Regulation and affecting the access to or the use of rail networks in* more than one Member State, the regulatory bodies concerned shall cooperate ~~in preparing their respective decisions under the coordination of the ENRRB in order to bring about a resolution of the matter ensure the consistency of their respective decisions~~. For that purpose, the regulatory bodies concerned shall carry out their functions in accordance with paragraph 1 of this Article and Article 56 of Directive 2012/34/EU. They shall take into account any relevant opinion and recommendation adopted by the ENRRB and shall provide these decisions to the ENRRB.

- 5. Where a regulatory body adopts a decision, which departs from any relevant opinion or recommendation of the ENRRB or where it refuses to adopt a decision, it shall provide to the ENRRB an explanation laying out the differences and its reasoning for not following the opinions or recommendations of the ENRRB *and include the relevant explanation in its decision.*
- 6. The regulatory bodies consulted by the ENRRB shall reply within the deadlines set by the ENRRB and, upon the latter's request, shall provide all the information that they have the right to request under their national law. This information may only be used for the purpose of the activities carried out by the regulatory bodies in accordance with this Regulation.
- 7. Infrastructure managers shall provide, without delay, all the information necessary for the purpose of handling the complaint or investigation referred to in this Article and requested by the regulatory body of the Member State in which the infrastructure manager is located. Regulatory bodies shall have the right to request information from ENIM on investigations within their competence. Regulatory bodies shall be entitled to transfer such information to the ENRRB.
- 8. Rail regulatory bodies shall provide the necessary resources for the functioning of the ENRRB.

Article 6664a

Organisation and structure of the European Network of Rail Regulatory Bodies (ENRRB)

For the purpose of this regulation, the ENRRB shall be organised into:

- (a) a Board of Regulatory Bodies (*the 'Board'*);
- (b) a Secretariat.

Regulatory bodies shall ensure the operation of the Secretariat.

SECTION 2

TASKS AND RESPONSIBILITIES OF THE EUROPEAN NETWORK OF RAIL REGULATORY BODIES

Article 65

Tasks and responsibilities of the ENRRB

- 1. In addition to its tasks under Directive 2012/34/EU, the ENRRB shall also have the tasks and responsibilities laid down in this Regulation. *The ENRRB shall make public any opinion and recommendation it has adopted. The ENRRB shall have no policy-making or regulatory powers.*
- 2. The ENRRB shall, *where relevant*, coordinate all cooperation activities of rail regulatory bodies as outlined in Article 64 and promote alignment of decisions of regulatory bodies in relation to *international cross-border* rail services.
- 3. ~~Based on requests by applicants, infrastructure managers, and other interested parties, the ENRRB shall provide opinions or recommendations on pending or adopted decisions on complaints submitted to the rail regulatory bodies.~~
- 4. ~~Interested parties may lodge a complaint with~~*Operational stakeholders may inform* the ENRRB on ~~matters~~*issues falling* within the scope of this Regulation ~~or affecting~~*which may affect* the access to or the use of rail infrastructure in more than one Member State. Where the ENRRB receives such a ~~complaint~~*information*, it shall transfer it to the competent regulatory body or bodies without delay.

The ENRRB may decide to adopt an opinion or recommendation on such issues. In such cases, the ENRRB shall immediately inform the rail-regulatory bodies concerned about its intention to adopt an opinion or recommendation on any such matter *thereto.*

- 5. The ENRRB shall submit its opinion or recommendation to the rail-regulatory bodies concerned within ~~one month~~*four weeks* of receipt of all the relevant information regarding the ~~complaint~~*issue in question.* The ENRRB may extend the period for particularly complex matters.

- *5a. The ENRRB may adopt opinions and recommendations on decisions taken by ENIM, or by the network coordinator, following requests from applicants or on its own initiative. When adopting an opinion or recommendation under this paragraph, it shall inform the regulatory bodies concerned.*
- 6. The ENRRB shall develop common principles and practices for ~~taking~~*the adoption, by regulatory bodies, of* the decisions for which ~~regulatory~~*those* bodies are empowered under this Regulation.
- *6a. The ENRRB shall provide its opinions or recommendations to the Commission on any shortcomings of the coordination process referred to Article 14 and, on request of the Commission, on emergency measures adopted by Member States having a significant impact on cross-border traffic as referred to in Article 47(5).*
- *6b. The ENRRB shall submit its opinion or recommendation to ENIM on the guidelines developed by ENIM on the definition of conditions giving rise to penalty, as referred to in Article 40(3).*
- *6c. ENRRB can issue own-initiative opinions on matters within its competence.*

Article 66

Organisation and structure of the European Network of Rail Regulatory Bodies (ENRRB)

For the purpose of this regulation, the ENRRB shall be organised into:

- (a) a ~~Board of Regulatory Bodies~~;
- (b) a ~~Secretariat~~.

~~Regulatory bodies shall ensure the operation of the Secretariat.~~

Article 67

Composition and organisation of the Board of Regulatory Bodies

- 1. The ~~Board of Regulatory Bodies shall be composed of one voting member~~ from each Member State that has a rail network in use ~~and one member appointed by the~~

~~Commission shall be members of the Board. They shall appoint a representative and an alternate to the Board.~~

The Commission shall be a non-voting member of the Board and appoint a representative and an alternate to the Board.

- 2. The voting members shall be the head, or a deputy head, of the regulatory body referred to in Article 55 of Directive 2012/34/EU. They shall have one alternate to represent the member in her or his absence. The alternate shall be appointed by the regulatory body from among the governance or the management of the regulatory body or, where this is not possible, from its staff.
- 3. Members of the Board and their alternates shall act independently and objectively in the interests of the Union, regardless of any particular national or personal interests. They shall neither seek nor take instructions from any government, institution, person or body.
- 4. An up-to-date list of members of the Board and their alternates, together with their declarations of interest; *and contact details* shall be made ~~public~~*publicly available* by the Secretariat of the ENRRB.
- 5. *The Board shall adopt and publish its rules of procedure, subject to approval by the Commission. The rules of procedure may establish more detailed voting arrangements, in particular the procedure for voting on urgent matters.*
- 6. *The Board shall take decisions by a majority of two-thirds of its members, unless otherwise provided for in the rules of procedure. Each member shall have one vote. In the absence of a member representative, the alternate shall be entitled to exercise the right to vote.*
- 7. *The Board shall be co-chaired by the Commission and one member elected from and by the Board. The Commission shall be a permanent co-chair of the Board and the other co-chair shall be elected for a period of 2 years.*
- 8. *The Secretariat shall provide the necessary services for organising the meetings and the work of the Board.*
- 9. *In accordance with the Board's rules of procedure, the Board may decide to set up working groups to organise the work of the ENRRB on specific topics related to the*

implementation of this Regulation, in particular on matters related to the performance of rail infrastructure services.

The working groups shall be open to the participation of experts from rail regulatory bodies and the Commission. The experts from operational stakeholders and from other public or private bodies may be invited to participate in those working groups on an ad-hoc basis.

Article 68

Role and tasks of the Board

- 1. The Board shall perform all tasks of the ENRRB set out in this Regulation.
- 2. In particular, the Board shall:
 - (a) adopt, *in accordance with the procedural rules laid down in, or referred to in, Article 67(6) or referred to in Article 67(5)*, opinions or recommendations *of the ENRRB* on complaints or investigations ~~presented~~transmitted to it ~~by its Chair~~ or by a regulatory body or bodies ~~in accordance with the rules laid down in~~ pursuant to Article 69(4)(3);
 - (aa) *adopt opinions and recommendations on decisions taken by ENIM working in cooperation with the network coordinator within the scope of this regulation;*
 - (ab) *following complaints from railway undertakings, operators of service facilities and other interested parties, adopt recommendations and opinions of the ENRRB in relation to the consultations referred to in Article 55a;*
 - (b) draft and adopt an annual report on the ENRRB's activities;
 - (c) set up working groups and appoint their Chairs;
 - (ca) *ensure that ENRRB's methods of operation and all relevant information about its work including its opinions and recommendations are made publicly available on its website. It shall include contact details for complaints, contact information for dedicated working groups, and information about procedures.*

Article 69

Organisation of the work of the Board

- 1. The Board shall adopt its rules of procedure, following approval by the Commission.
- 2. The Commission shall chair the meetings of the Board. It shall have no voting right.
- 3. The Secretariat shall provide the necessary services for organising the meetings and the work of the Board.
- 4. The Board shall take decisions by a simple majority of its members, unless otherwise provided for in the rules of procedure.
- 5. Each member shall have one vote. In the absence of a member, the alternate shall be entitled to exercise the right to vote.
- 6. The rules of procedure may establish more detailed voting arrangements, in particular the procedure for voting on urgent matters and on cases of recommendations on decisions of rail regulatory bodies.

Article 70

Working groups of the ENRRB

- 1. On its own initiative or upon a proposal by the Commission, and in accordance with the Board's rules of procedure, the Board may decide with a simple majority to set up working groups to organise the work of the ENRRB on specific topics related to the implementation of this Regulation.
- 2. The Board shall define the mandate of the working group and appoint the Chairs of the working groups, representing, where possible, different rail regulatory bodies.
- 3. The working groups shall be open to the participation of experts from rail regulatory bodies, the Commission, operational stakeholders and, where relevant, from other public or private bodies.
- 4. The Secretariat shall provide administrative support to the working groups.

- 5. The Board or the Chairs of the working groups may invite individual experts recognised as competent in the relevant field to participate in the working group meetings if necessary on a case-by-case basis.

• CHAPTER VII

FINAL PROVISIONS

Article 70a

Monitoring of European frameworks

- 1. *The Advisory Performance Panel shall monitor the adoption and application of the European framework on capacity management and the elements thereof referred to in Article 6, the European framework for the coordination of cross-border traffic management, disruption management and crisis management and the elements thereof referred to in Article 44, and the European framework for performance review and the elements thereof referred to in Article 50.*
- 2. *The Advisory Performance Panel shall, within two years after the adoption by ENIM of the frameworks referred to in paragraph 1, present to ENIM and the Commission a report on the application of these frameworks evaluating their effectiveness. The report may also include recommendations on how to address specific shortcomings. Where the Advisory Performance Panel has identified significant shortcomings in the frameworks, it shall ask ENIM to address them, updating accordingly the relevant framework, within three months.*

The report shall be made publicly available.

The Advisory Performance Panel shall issue a report at least every three years.

- 3. *The Advisory Performance Panel shall closely cooperate with national regulatory bodies and the ENRRB when monitoring the frameworks and preparing the report. The Advisory Performance Panel may consult ERP and other operational stakeholders, where relevant.*

Article 70b

Implementing acts relating to the monitoring of the European frameworks

- - 1. *The Commission shall adopt [no later than 18 months from the moment when ENIM is to adopt the relevant framework] an implementing act setting out the European frameworks referred to in Articles 6, 44 and 50, or elements thereof, in the following cases:*
 - a. *where ENIM fails to adopt the European framework on capacity management, or elements thereof, referred to in Article 6 within 18 months of the entry into force of this Regulation;*
 - b. *where ENIM fails to adopt the European framework for the coordination of cross-border traffic management, disruption management and crisis management, or elements thereof, referred to in Article 44 within 22 months of the entry into force of this Regulation;*
 - c. *where ENIM fails to adopt the European framework for performance review, or elements thereof, referred to in Article 50 within 26 months of the entry into force of this Regulation.*
 - 2. *The Commission shall adopt an implementing act no later than 12 months after the publication of the APP report setting out the European frameworks, or elements thereof, referred to in Articles 6, 44 and 50, where the Commission concludes, taking into account the report from the Advisory Performance Panel referred to in Article 70a, that:*
 - a. *the common tools, methodologies and procedural arrangements, as set out in the European framework on capacity management, are inadequate to meet their intended objectives and to ensure the management of rail infrastructure capacity or the coordination between infrastructure managers and other operational stakeholders;*
 - b. *the common tools, methodologies and procedural arrangements, as set out in the European framework for the coordination of cross-border traffic management, disruption management and crisis management, are inadequate to meet their intended objectives and to ensure cross-border traffic management between*

infrastructure managers, railway undertakings and other operational stakeholders;

- c. *the common tools, methodologies and procedural arrangements, as set out in the European framework for performance review, are inadequate to meet their intended objectives and to ensure performance review of the infrastructure managers falling under this Regulation;*
- d. *the European framework for capacity management is not sufficient to ensure the uniform conditions for the implementation of this Regulation; or the European framework for coordination of cross-border traffic management, disruption management and crisis management is not sufficient to ensure the uniform conditions for the implementation of this Regulation; or the European framework for performance review is not sufficient to ensure the uniform conditions for the implementation of this Regulation; or*
- e. *ENIM did not sufficiently address within the three month deadline the shortcomings identified by the Advisory Performance Panel in the report referred to in Article 70a(2).*

3. *Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 72(3).*

4. *In the preparation of the draft implementing acts, the Commission shall take into account the work of ENIM and the report from the Advisory Performance Panel, where available.*

Article 71

Exercise of the delegation

- - 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
 - - 2. The power to adopt delegated acts referred to in Article 10(8), Article 11(2), Article 21(9), Article 38(3), Article 39(9), Article 46(6), **40(5) and Article 48(3) and Article 53(5)** shall be conferred on the Commission for a period of five years from [1 January 2026 *insert date of entry into force*]. The Commission shall draw up a report in respect of the

delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

- *3. The delegation of powers referred to in Article 10(8), Article 11(2), Article 21(9), Article 38(3), Article 39(9), Article 40(5) and Article 48(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- *4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
- *5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- *6. A delegated act adopted pursuant to Article 10(8), Article 11(2), Article 21(9), Article 38(3), Article 39(9), Article 40(5) and Article 48(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.*

Article 72

Committee procedure

- 1. The Commission shall be assisted by the Committee referred to in Article 62 of Directive 2012/34/EU. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

- 2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
- 3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.

Article 73

Report and review

By {31 December 2030}2033, the Commission shall evaluate the impact of this Regulation 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.

The report shall, in particular, evaluate:

- (a) the impact of this Regulation on the performance of rail infrastructure services;
- (b) the impact of this Regulation on the development of rail **transport** services, notably international services, long-distance services and freight services;
- (c) the work of the European Network of Infrastructure Managers **ENIM**, of the Network Coordinator, the European Network of Rail Regulatory Bodies and the Performance Review Body **and of the ENRRB** in general and in relation to the development, adoption and implementation of common criteria, methodologies and procedures;
- (d) the need to reinforce **effectiveness of the** coordination mechanisms by replacing elements of **within** the European framework **framework for capacity management** referred to in Articles 6 and 44 with binding rules **Article 6, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 44 and the European framework for performance review referred to in Article 50**;

- (e) the need to strengthen the effectiveness of the regulatory oversight by establishing a Union rail regulatory body at national and European level;
- (ea) the functioning of the socio-economic, operational and environmental criteria.

Article 74

Amendments to Directive 2012/34/EU

- 1. Directive 2012/34/EU is amended as follows:
 - (a) In Article 1, point (c) is replaced by the following:

‘(c) the principles and procedures applicable to the setting and collecting of railway infrastructure charges as set out in Chapter IV.’
 - (b) In Article 2, paragraph 6 is deleted;
 - (c) **In Article 3**, points (20), (22), (23), (27) and (28) are deleted;
 - (d) Article 7b is deleted;
- (da) **Article 27(2) is replaced by the following:**

‘2. *The network statement shall contain information setting out the conditions for access to the relevant railway infrastructure. The network statement shall also contain information setting out the conditions for access to service facilities connected to the network of the infrastructure manager and for supply of services in these facilities or indicate a website where such information is made available free of charge in electronic format. The content of the network statement is laid down in Annex IV.*
- (e) Article 36 is deleted;
- (f) Articles 38 to 54 are deleted;
- (g) In Annex IV, points (1) and (3) are deleted;
- (h) Annex VII is deleted.

- 2. References to the deleted provisions of Directive 2012/34/EU shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Section 1 of Annex X.

Article 75

Transitional provisions

- 1. Framework agreements concluded in accordance with Article 42 of Directive 2012/34/EU shall continue to apply until their expiration date.
- 2. Article 3, points (20), (22), (23), (27) and (28), Articles 7b, 36 and 38 to 54, Annex IV point (3) and Annex VII of Directive 2012/34/EU shall not apply to activities and tasks carried out in relation to the working timetables entering into force **on or** after ~~18~~ December 2029~~14~~ 2030.

Article 76

Repeal

- 1. Regulation (EU) No 913/2010 is repealed with effect from ~~14~~ December 2029~~14~~ 2030.
- 2. References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Section 2 of Annex X.

Article 77

Entry into force and application

- 1. This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.
- 2. It shall apply from ~~1 January 2026~~ **enter date the day after the entry into force**. However:
 - (a) Articles 1, 2 and 3, **with the exception of Article 1(5)**, Chapter II, with the exception of Article 9(1) and (2) and Article 27(4), **28(0)**, and Chapter III, with the exception

of **Article 47 and** Article 48, of this Regulation shall apply only to activities and tasks carried out in relation to the working timetables entering into force **on or** after [8]14 December 2029]2030;

- (b) Article 9(1) and (2) shall apply from [1 January 2028]2029;
- (e) Article 27(4) shall apply from [1 March 2026];
- (d) Articles 27(4), 28(0), 48 and 62 shall apply from [13]31 December 2026]2027;
- (e) Article 74 shall apply from [9]14 December 2029]2030.

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

Done at Strasbourg...,

For the European Parliament
The President

For the Council
The President

Annex I

DELIVERABLES AND SCHEDULE FOR CAPACITY MANAGEMENT

~~DELIVERABLES AND SCHEDULE FOR CAPACITY MANAGEMENT~~

~~REFERRED TO IN ARTICLES 11, 16, 18 AND 38~~

- 1. Deliverables to be prepared by infrastructure managers in strategic capacity planning referred to in articles 11, 16, 17 and 18

Deliverable	Contents
Capacity strategy (Article 16)	<ul style="list-style-type: none">– <i>Geographical scope of the capacity strategy: lines covered by the strategic capacity planning pursuant to Article 12(6);</i>– Planned development of physical infrastructure, including new construction, upgrades, renewals and closures /decommissioning, <i>detailing the characteristics of that infrastructure;</i>– Forecasted development of demand for rail transport services;– <i>The strategic guidance on capacity utilisation by Member States, including an outlook on the evolution on public service obligations where Member States have provided such guidance;</i>– Capacity allocated in framework agreements and capacity <i>that may be</i> required to provide transport services under public service contracts;– <i>Information about the availability and utilisation of railway infrastructure, including</i> infrastructure declared highly utilised or congested;– <i>Major</i>Planned infrastructure works resulting in capacity restrictions resulting from infrastructure works with major impact.
Capacity model (Article 17)	<ul style="list-style-type: none">– All information included in the capacity strategy, where relevant updated and further detailed;– Total volume of capacity available, <i>including multi-network capacity</i>, to applicants <i>by network section including volume of capacity available</i> by rail transport market segment <i>for different segment of rail transport</i>

	<p><i>services and/or by allocation process, including safeguarded capacity for later requests and capacity assigned by Framework Agreements;</i></p> <ul style="list-style-type: none"> – Volume of capacity reserved for capacity restrictions resulting from infrastructure works by impact on the estimated traffic (categories) Geographical scope: at least the lines included in the TEN-T core and extended core network <i>volume, as laid down in section 3 of Annex I;</i> – Geographical detail: breakdown in appropriate planning sections reflecting infrastructure and demand characteristics; – Temporal scope: one working timetable period; – Temporal detail: at least annual overview (capacity restrictions) and one or more representative day/days (capacity available for requests).
Capacity supply plan (Article 18)	<ul style="list-style-type: none"> – All information included in the capacity model, where relevant updated and further detailed; – Pre-planned <i>Capacity available for allocation to applicants for the working timetable period to which the capacity supply plan refers:</i> <ul style="list-style-type: none"> (i) <i>Where applicable under Article 18(4) and in accordance with Article 18(4) and (5), pre-planned</i> capacity available for requests, <i>including multi-network capacity</i>, defined in the form of capacity objects <i>in accordance with Article 18(5);</i> (ii) <i>capacity, which has not been pre-planned by the infrastructure manager;</i> (iii) <i>capacity, which is available in the service facilities referred to in Article 29(1).</i> – <i>Capacity which is not available for allocation to applicants:</i> <ul style="list-style-type: none"> (i) capacity restrictions, defined in the form of capacity objects, <i>including capacity restrictions referred to in point 1, section 3, of this Annex;</i> (ii) <i>capacity already allocated through framework agreements in accordance with Article 31 or through the multi-annual rolling planning process in accordance with Article 33;</i> (iii) <i>capacity reserved for purposes other than those set out in points (i) and (ii), which shall be clearly indicated by the infrastructure manager;</i>

	<p>(iv) <i>other capacity already allocated, when updating the capacity supply plan during the working timetable to which the capacity supply plan refers.</i></p> <p>– Alternative capacity available during capacity restrictions;</p> <p>– Alternative capacity available in the event of network disruptions;</p> <p>– <i>Restrictions applicable for the use of specialised infrastructure referred to in Article 24.</i></p>
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- 2. Schedule for strategic capacity management referred to in articles 11, 16, 17 and 18
 - 1. When preparing the deliverables of strategic capacity planning for a given working timetable period, infrastructure managers shall respect the schedule set out in this section.

~~Infrastructure managers may define earlier deadlines. Such deadlines shall be harmonised at EU level and included in the European framework for capacity management referred to in Article 6.~~

The consultation of stakeholders *regarding European and cross-border matters* shall be carried out in accordance with Article 54 and shall involve ~~at least railway undertakings and other applicants, all~~ operational stakeholders and public authorities. Infrastructure managers shall coordinate the deliverables on a continuous basis ~~when coordinating in accordance with~~ *in the framework of the coordination process provided by Article 53.*

Deliverable	Milestone	Deadline (at latest)
Capacity strategy (Article 16)	Publication of the first elements <i>Start</i> of the capacity strategy <i>elaboration phase</i>	X-60
	First consultation of <i>operational</i> stakeholders	X-58
	Publication of the draft strategy and second consultation of <i>operational</i> stakeholders <i>on the draft strategy</i>	X-3839
	Publication of final capacity strategy following final coordination between infrastructure managers <i>and taking into account any comments that the ERP might have issued</i>	X-36

	<i>following the publication of the draft capacity strategy</i>	
Capacity model (Article 17)	Start of preparation	X-36
	<i>Consultation of Capacity needs announcements by applicants and potential applicants and consultation of operational stakeholders</i>	X-24
	<i>Publication of draft capacity model and start of the second consultation of applicants, operational stakeholders.</i>	X-21
	<i>Coordination End of consultation with applicants and operational stakeholders and taking into account any comments that the regulatory body might have issued following the publication of the draft capacity model</i>	X-19
	Publication of final capacity model following final coordination between infrastructure managers	X-18
Capacity supply plan (Article 18)	Start of preparation	X-18
	Consultation of applicants and operational stakeholders	X-14
	<i>Regulatory Body shall analyse the draft capacity supply plan and may take a decision requiring the infrastructure manager to amend the capacity supply plan</i>	X-14 to X-13
	Publication of capacity restrictions referred to in point (1) of section (3) of this Annex	X-12
	Publication of final capacity supply plan following final coordination between infrastructure managers	X-11
	<i>Update of capacity supply plan for late requests</i>	X-6,5
	<i>Publication of capacity restrictions referred to in point (5) of section (3) of this Annex</i> Update of capacity supply plan to reflect any changes to pre-planned or allocated capacity Until X+12 without delay	X-4

	<i>Re-purposing of capacity reserved for allocation through the working timetable for other allocation processes</i>	X-2
	<i>Update of capacity supply plan to reflect any changes to pre-planned or allocated capacity</i>	<i>Until X+12 without delay</i>
<p><i>Note: 'X-m' means 'm' months before the date of entry into force of the working timetable ('X'), in accordance with section 4.</i></p>		

- 2. By way of derogation to point 1, the following simplified and shortened schedule applies to the deliverable 'Capacity strategy' in relation to the working timetable periods starting in December ~~2029~~~~2030~~ and December ~~2030~~~~2031~~:

Capacity strategy (Article 16)	Publication of the draft strategy and consultation of <i>operational</i> stakeholders	X-38
	Publication of final capacity strategy following final coordination between infrastructure managers <i>and taking into account any comments that the ERP might have issued following the publication of the draft capacity strategy</i>	X-36

- 3. Schedule *and requirements* for coordination, consultation and publication of capacity restrictions resulting from infrastructure works referred to in Articles 10 and 35
 - *0. Capacity restrictions shall be classified depending on their duration and their impact on traffic (estimated affected traffic volume on a railway line per day), according to the following table.*

	<i>Duration</i>	<i>Impact on traffic</i>	<i>Finalisation of first coordination and consultation and publication of draft capacity restrictions</i>	<i>Finalisation of second coordination and consultation of capacity restrictions with impact on more than one network</i>	<i>Publication of final capacity restrictions</i>	<i>Provision of details on the alternative train paths offered</i>

Major impact	More than 30 days	More than 50%	X-24	X-18	X-12	
High impact	More than 7 days	More than 30%	X-24	X-13.5	X-12	
Medium impact	7 days or less	More than 50%		X-13.5	X-12	
Low impact	7 days or less	More than 10%			X-4	T-4 Passenger T-1 Freight
<p>'X-m' means 'm' months before the date of entry into force of the working timetable ('X') in accordance with section 4</p> <p>'T-m' means 'm' months before the start of the train run concerned</p>						

- 1. As regards temporary restrictions of the capacity of railway lines, for reasons such as infrastructure works, including associated speed restrictions, axle load, train length, traction, or structure gauge ('capacity restrictions'), of a duration of more than 7 consecutive days and for which more than 30 % of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport, **that have a major or high impact** the infrastructure managers concerned shall publish all capacity restrictions and the preliminary results of a consultation with the applicants for a first time at least 24 months and, in an updated form, for a second time at least 12 months before the change of the working timetable concerned. These infrastructure restrictions shall be included in the capacity supply plan referred to in Article 18.
- 2. As part of the coordination between infrastructure managers in accordance with Article 53, the entities designated in paragraph 5 of that Article shall also jointly discuss those capacity restrictions, if the impact of the capacity restrictions is not limited to one network, with interested applicants and the main operators of service facilities concerned when they are published for the first time.
- 3. When publishing capacity restrictions in accordance with point (1) for a first time, the infrastructure manager shall launch a consultation with the applicants and the main operators of services facilities concerned on the capacity restrictions. Where a coordination in accordance with point (4) is required between the first and second publication of capacity restrictions, the entities designated in

~~in accordance with Article 53(5) infrastructure managers~~ shall consult with applicants and the ~~main~~ operators of service facilities concerned a second time between the end of that coordination and the second publication of the capacity restriction.

- - 4. Before publishing capacity restrictions in accordance with point (1), if the impact of the capacity restrictions is not limited to one network, ~~the entities designated in accordance with Article 53(5), including~~ infrastructure managers ~~that might be impacted by the rerouting of trains,~~ shall coordinate between themselves ~~capacity restrictions that could involve a cancellation, re-routing of a train path or a replacement by other modes~~ and, if necessary, with interested applicants and operators of service facilities concerned.

The *final coordination and consultation* before the second publication shall be completed:

- (a) no later than 18 months before the change of the working timetable ~~if more than 50% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport for a duration of more than 30 consecutive days~~ *for capacity restrictions with major impact.*
- (b) no later than 13 months and 15 days before the change of the working timetable period ~~if more than 30% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport for a duration of more than 7 consecutive days~~ *for capacity restrictions with high impact.*
- (c) no later than 13 months and 15 days before the change of the working timetable period ~~if more than 50% of the estimated traffic volume on a railway line per day is cancelled, re-routed or replaced by other modes of transport for a duration of 7 consecutive days or less~~ *for capacity restrictions with medium impact.*

The ~~entities performing the coordination between infrastructure managers in accordance with Article 53(5)~~ *final publication of capacity restrictions with*

~~major, high and medium impact shall, if necessary, invite the applicants active on the lines be completed at least 12 months before the change of the working timetable concerned and the main operators of service facilities concerned to get involved in that coordination.~~

- 5. As regards capacity restrictions of a duration of 7 consecutive days or less that need not be published in accordance with point (1) and for which more than 10% of the estimated traffic volume on a railway line per day is cancelled, rerouted or replaced by other modes, *with a low impact* that occur during the following timetable period and that the infrastructure manager becomes aware of no later than 6 months and 15 days before the change of the working timetable, the infrastructure manager shall consult the applicants concerned on the envisaged capacity restrictions and communicate the updated capacity restrictions at least four months before the change of the working timetable. The infrastructure manager shall provide details on the offered train paths for passenger trains no later than four months and for freight trains no later than one month before the beginning of the capacity restriction, unless the infrastructure manager and the concerned applicants agree on a shorter lead time.
- 6. Infrastructure managers may decide to apply more stringent thresholds for capacity restrictions based on lower percentages of estimated traffic volumes or shorter durations than indicated in section 3 of this Annex or to apply criteria in addition to the ones mentioned in this Annex, pursuant to a consultation with applicants and facility operators. They shall publish the thresholds and criteria for clustering capacity restrictions in their network statements under point 32 of Annex IV of Directive 2012/34/EU.
- 7. ~~Without prejudice to Article 40, the infrastructure manager may decide not to apply the periods laid down in points (1) to (5), if the capacity restriction is necessary to re-establish safe train operations, the timing of the restrictions is beyond the control of the infrastructure manager, the application of those periods would be cost ineffective or unnecessarily damaging in respect of asset life or condition, or if all concerned applicants agree. In those cases and in case of any other capacity restrictions that are not subject to consultation in accordance with~~

~~other provisions of this Annex, the infrastructure manager shall consult the applicants and the main operators of service facilities concerned forthwith.~~

– 8. The information to be provided by the infrastructure manager when acting in accordance with points (1), *or* (5) or (7) *Article 35(6a)* shall include:

- (a) the planned day;
- (b) time of day, and, as soon as it can be set, the hour of the beginning and of the end of the capacity restriction;
- (c) the section of line affected by the restriction;
- (d) where applicable, the capacity of diversionary lines.

The infrastructure manager shall publish that information, or a link where it can be found, in its network statement as referred to in point (3)(2) of Annex IV ~~of Directive 2012/34/EU~~. The infrastructure manager shall keep this information updated. In addition, infrastructure managers shall publish this information in digital format in accordance with Articles 9 and 62.

– 9. As regards ~~the capacity restrictions of a duration of at least 30 consecutive days and affecting more than 50% of the estimated traffic volume on a railway line, the infrastructure with a major impact, the infrastructure~~ manager shall provide the applicants upon their request during the first round of consultation with a comparison of the conditions to be encountered under at least two alternatives of capacity restrictions. The infrastructure manager shall design those ~~alternatives~~ *alternatives* on the basis of the input provided by the applicants at the time of their requests and jointly with them.

The comparison shall, for each alternative, include at least:

- (a) the duration of the capacity restriction,
- (b) the expected indicative infrastructure charges due,
- (c) the capacity available on diversionary lines,
- (d) the available alternative routes, and

- (e) the indicative travel times.

Before making a choice between the alternatives of capacity restrictions, the infrastructure manager shall consult the interested applicants and take into account the impacts of the different alternatives on those applicants and on the users of the services. *If the analysis of alternative capacity restrictions concerns more than one infrastructure manager, the infrastructure managers shall coordinate amongst themselves.*

~~The analysis of alternative capacity restrictions shall include situations concerning more than one infrastructure manager. In this case, the infrastructure managers shall coordinate the planning of alternative of the capacity restriction in accordance with Article 53.~~

- 10. As regards the capacity restrictions of a duration of more than 30 consecutive days and affecting more than 50 % of the estimated traffic volume on a railway line *with a major impact*, the infrastructure manager shall establish criteria for which trains of each type of service should be re-routed, taking into account the applicant's commercial and operational constraints, unless those operational constraints result from managerial or organisational decisions of the applicant, and without prejudice to the aim of reducing costs of the infrastructure manager in accordance with Article 30(1) of Directive 2012/34/EU. The infrastructure manager shall publish in the network statement those criteria.
- 11. ENIM shall publish the information required under point (8) on its website.
- 12. ~~The Commission shall review the implementation of section 3 of this Annex until 31 December 2024 and propose a legislative proposal if necessary.~~
- 4. Schedule for capacity allocation through the annual allocation process referred to in Articles 32 and 38
 - 1. The infrastructure manager and the applicants shall comply with the following schedule:

Milestone or time period	Deadline or duration
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Period of validity of the working timetable ('working timetable period')	One year <i>Starting at midnight on the second Saturday of December up to midnight of the second Saturday of December of the following year.</i>
Entry into force of the working timetable	Midnight on the second Saturday in December
Publication of capacity supply plan	In accordance with section 2 of this Annex
Publication of capacity restrictions resulting from infrastructure works	In accordance with sections 2 and 3 of this Annex
Deadline for applicants to submit requests for capacity rights	X-8.59.5
Preparation of draft working timetable Deadline for infrastructure manager(s) to submit draft capacity offer to applicants	X-6.57.5
Finalisation of coordination consultation with applicants	X-66.5
Deadline for infrastructure manager(s) to submit final capacity offer to applicants	X-5.5
Publication of final working timetable Deadline for infrastructure manager to allocate capacity rights to applicants	X-5.25
Conversion of capacity specifications in train paths	To be specified <i>by the infrastructure managers in the network statement, taking into account</i> the European framework for capacity management referred to in Article 6
<i>Note: 'X-m' means 'm' months before the date of entry into force of the working timetable ('X')</i>	

- 2. ~~Infrastructure managers shall allocate capacity requests received in accordance with Article 32(8) on the basis of the first come, first served principle.~~
- 3. The deadline for applicants to submit requests for capacity rights laid down in the table under point 1 shall be the deadline for requests for infrastructure capacity referred to in Article 27(4) of Directive 2012/34/EU.

- 5. Schedule for capacity allocation through framework agreements referred to in Articles 31 and 38
 - 4. The infrastructure manager shall comply with the following schedule:

Time period	Duration
Standard period of validity of framework agreements	5 years
Conversion of capacity specifications in train paths	Between X-8.5 and X-6.5 (jointly with coordination under the annual allocation process referred to in section 4)
<p><i>Note: 'X-m' means 'm' months before the date of entry into force of the working timetable ('X') in accordance with section 4</i></p>	

- 6. Schedule for the rolling planning capacity allocation process referred to in Articles 33 and 38
 - 4. The infrastructure manager and the applicants shall comply with the following schedule during the rolling planning process;:

Milestone or time period	Deadline or duration
Earliest point in time for applicants to submit capacity requests under the rolling planning allocation process	4 months before the first train run
Latest point in time for applicants to submit capacity requests under the rolling planning allocation process	1 month before the first train run
Maximum duration of capacity rights granted under the rolling planning allocation process	36 months starting from the first train run
Conversion of capacity specifications in train paths for capacity rights granted in accordance with paragraph 2, point (a) of Article 33	Between X-8.5 and X-6.5 (jointly with coordination under the annual allocation process) <i>To be specified by the infrastructure managers taking into account the European framework for capacity management referred to in section 4) Article 6</i>

Conversion of capacity specifications in train paths for capacity rights granted in accordance with paragraph 2, point (b) of Article 33	To be specified by the infrastructure managers taking into account the European framework for capacity management referred to in Article 6
<i>Maximum period for infrastructure managers to prepare an offer of capacity rights under rolling planning process</i>	<i>15 days</i>
<p><i>Note: 'X-m' means 'm' months before the date of entry into force of the working timetable ('X') in accordance with section 4</i></p>	

- ~~2. Infrastructure managers shall allocate capacity through the rolling planning process based on the first come, first served principle.~~

7. Schedule for capacity allocation through the ad hoc process referred to in Articles 34 and 38

When allocating infrastructure capacity through the ad hoc process, the infrastructure manager shall comply with the following schedule:

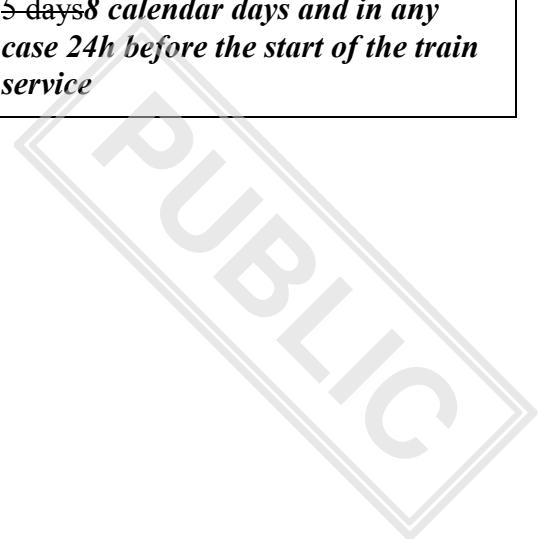
Time period	Duration
Maximum period for infrastructure managers to prepare an offer of capacity rights concerning a single network	1 day <i>7 calendar days and in any case 24h before the start of the train service</i>
Maximum period for infrastructure managers to prepare an offer of multi-network capacity rights	<i>5 days</i>

8. Schedule for changes to capacity allocated referred to in Article 39

When changing infrastructure capacity rights, the infrastructure manager shall comply with the following schedule:

Milestone or time period	Deadline or duration
Maximum time for the infrastructure manager to offer an alternative capacity right involving a single network	24 hours <i>4 calendar days and in any case 24h before the start of the train service</i>

Maximum time for infrastructure managers concerned to offer an alternative multi-network capacity right	5 days <i>8 calendar days and in any case 24h before the start of the train service</i>
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Annex II

Thresholds for the declaration of highly utilised and congested infrastructure referred to in Article 21

~~Highly utilized and congested infrastructure referred to in Article 20~~

~~Thresholds for the declaration of highly utilised and congested infrastructure~~

Utilisation	Classification	Capacity utilisation	Reference period
Heterogenous traffic	Highly utilised	> 65% 85% of theoretical capacity	More than 4 hours for more than 200 days per year
Heterogenous traffic	Congested	> 95% of theoretical capacity	More than 4 hours for more than 250 days per year
Homogeneous traffic	Highly utilised	> 80% 90% of theoretical capacity	More than 4 hours for more than 200 days per year
Homogenous traffic	Congested	> 95% of theoretical capacity	More than 4 hours for more than 250 days per year

Capacity utilisation means the ratio between capacity allocated, or for previous timetable periods, the actual number of trains running and the theoretical capacity available on an element of infrastructure on the basis of the methodology referred to in ~~section 2~~**Article 21(1a)**.

‘Homogenous traffic’ means that trains on the section concerned generally have similar characteristics relevant for capacity utilisation, in particular speed, stopping pattern and acceleration.

‘Heterogenous traffic’ means that trains on the section concerned differ in characteristics relevant for capacity utilisation, in particular speed, stopping pattern and acceleration.

~~Procedures and methods to calculate the degree of capacity utilisation~~

~~Infrastructure managers shall assess the degree of capacity utilisation on the basis of objective, transparent and appropriate procedures and methods.~~

~~Infrastructure managers may continue to use existing procedure and methods that meet these criteria. At the latest 3 years of the entry into force of this Regulation, ENIM shall prepare a recommendation on the use of a harmonised EU procedure and method to assess the utilisation of rail infrastructure capacity.~~

~~Alternatively, capacity utilisation can be assessed as the ratio between the demand for capacity (observed / past or estimate of future demand) and capacity available in the capacity utilisation plan in accordance with Article 18.~~

Annex III

CONTENTS OF THE EUROPEAN FRAMEWORK FOR CAPACITY MANAGEMENT REFERRED TO IN ARTICLE 6

CONTENTS OF THE EUROPEAN FRAMEWORK FOR CAPACITY MANAGEMENT REFERRED TO IN ARTICLE 6

The European framework for capacity management referred to in Article 6 shall contain at least the following elements:

Element	Reference(s)
Procedures and methodologies to manage and allocate scarce infrastructure capacity on the basis of socio-economic and environmental criteria.	<i>Article 8(5), Article 8(6)</i>
Types and description of rail transport services to be used for the purposes of strategic planning of rail infrastructure capacity.	Article 12(2)
Common principles, procedures and methodologies and procedural arrangements for strategic capacity planning, including for the coordination between infrastructure managers and the consultation of stakeholders, <i>including for the Capacity Needs Announcements</i> .	<i>Article 12(4), Article 12(9), Article 13, Article 14, Article 17(1), Article 54</i>
Means for publication of the capacity supply plan and process for consultation of applicants <i>Guidelines setting out procedures and methodologies to be used for the transport market analysis</i>	Article 18(10) 15(3)
<i>Means for publication of the capacity supply plan and process for consultation of applicants</i>	<i>Article 18(10)</i>
<i>Guidelines on the definition of limits within which the infrastructure manager can propose a capacity model, or a capacity supply plan, that differs from the input received</i>	<i>Article 17(2a), Article 18(8)</i>
Rules <i>Criteria</i> and procedures for the allocation of pre-planned capacity included in the capacity supply plan.	Article 20(3)
<i>Specifications for capacity planning objects in human-readable and in machine-readable format</i>	<i>Article 20(4)</i>
Characteristics of <i>Common method on the utilisation of rail infrastructure</i> capacity specifications	Article 26(1) 21(1a)

<i>Methodology for assessment and the list of parameters relating to rail transport services and socio-economic and environmental criteria, including the list of parameters, standard parameter values, or ranges of standard values</i>	<i>Article 25(2b), Article 37(1c)</i>
<i>Characteristics of capacity specifications</i>	<i>Article 26(1)</i>
Ranges for threshold quotas applicable to the cancelation of unused capacity rights	Article 27(6)
Procedures and methods to coordinate the allocation of multi-network capacity rights, including minimum quality requirements.	Article 28(5)
Guidelines on <i>the definition of</i> the limits regarding the differences between capacity requests by applicants and infrastructure capacity proposed by infrastructure managers in the consensual conflict resolution process.	Article 36(2)
<i>Guidelines for the consensual conflict resolution mechanism for conflicts including at least one multi-network capacity request</i>	<i>Article 36(8)</i>
Procedures to manage changes to capacity rights after allocation.	Article 39(8)
<i>Procedures to manage changes to capacity rights after allocation.</i>	<i>Article 39(8)</i>
Conditions giving rise to compensation for changes to capacity rights. Guidelines for the application of the modulation of penalties	Article 40(3)40(4)
Principles, rules and procedures to manage and allocate infrastructure capacity in the event of a network disruption. Guidelines for appropriate and regular consultation of interested parties regarding European and cross-border matters	Article 41(2)54(1)

Annex IIIa

Minimum and maximum level of the penalty, in accordance with Article 40

The minimum level of the penalty before possible modulation shall be 1 EUR/km of the affected train path.

The maximum level of the penalty before possible modulation shall be 8 EUR/km of the affected train path.

Annex IV

Contents of the Network Statement referred to in Article 27 of Directive 2012/34/EU – section on capacity management and traffic management

~~Contents of the Network Statement referred to in Article 27 of Directive 2012/34/EU – section on capacity management and traffic management~~

In addition to the elements referred to in Article 27(2) of Directive 2012/34/EU, the network statement referred to in ~~that Article 27 of Directive 2012/34/EU~~ shall contain:

- (1) A section setting out the nature of the infrastructure, which is available to railway undertakings and the conditions of access to it. This section shall refer to information available in the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797.
- (2) A section on the principles and criteria for capacity management. This shall set out the general capacity characteristics of the infrastructure, which is available to railway undertakings and any restrictions relating to its use, including likely capacity requirements for maintenance. It shall also specify the procedures and deadlines which relate to the capacity management process. It shall contain specific criteria, which are employed during that process, in particular:
 - (a) the procedures according to which applicants are consulted on strategic capacity planning *and provide capacity needs announcements*;
 - (b) the procedures according to which applicants may request capacity from the infrastructure manager;
 - (c) the requirements governing applicants;
 - (d) the schedule for strategic capacity planning, for application, allocation, adaptation and rescheduling processes and the procedures which shall be followed to request information on the scheduling and the procedures for scheduling planned and unforeseen maintenance work;

- (e) the principles governing the consensual conflict resolution mechanism referred to in Article 36, ~~including the dispute resolution system made available as part of this process~~, and the formal conflict resolution mechanism referred to in Article 37;
- (f) the structure and level of ~~compensation~~*penalties* for changes to capacity rights;
- (g) the procedures which shall be followed and criteria used where infrastructure is highly utilised or congested;
- (h) details of restrictions on the use of infrastructure;
- (i) an explanation for any deviations from the European framework referred to in Article 6.

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- (3) A section on operations, including on traffic management, disruption management and crisis management. This shall set out the implementation of requirements laid out in this Regulation and in Directive (EU) 2016/797, Directive (EU) 2016/798 and Directive 2007/59/EC, including:
- (a) operational rules, including priority rules or priority principles for traffic management, a list of or references to technical, operational and safety rules and to rules relating to operational staff;
- (b) operational measures, including rules and procedures for disruption management and crisis management, operational communication and data exchange with railway undertakings and other operational stakeholders;
- (c) a list of and references to information systems used in operations;
- (d) an explanation for any deviations from the European framework referred to in Article 44.

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- (4) A section on the key elements of performance management, including in particular:
- (a) references to performance objectives set out in the business plan referred to in Article 8~~(2)~~*8(3)* of Directive 2012/34/EU and in the contractual agreement referred to in Article 30 of that Directive;

- (b) procedures to monitor and report on progress towards the achievement of the targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance;
- (c) an explanation for any deviations from the European framework referred to in Article 50.

The European framework for the coordination of cross-border traffic, disruption and crisis management shall contain at least the following elements:

Element	Reference(s)
Common principles Rules and procedures for traffic management, disruption management and crisis management to be taken into account by infrastructure managers when setting out rules and procedures for traffic management.	Article 43
Common rules and procedures for the coordination of traffic management, disruption management and crisis management between infrastructure managers and with operational stakeholders.	Article 42, Article 43, Article 44(1), Article 44(2) Article 45, Article 46, Article 47, Article 48
Common rules and procedures Guidelines for managing and allocating capacity in the event of network disruptions and crisis situations.	Article 41(1)41(2)
Definition of responsibilities of operational stakeholders involved in the management of cross-border traffic, based on a set of agreed operational procedures, milestones and interfaces.	Article 45
Procedures, rules, tools and interfaces for communication and the exchange of information, including harmonised digital tools and interfaces, between infrastructure managers, operational stakeholders and other stakeholders concerned, in particular public authorities.	Article 45, Article 48, Article 62
Principles to establish dedicated coordination groups in relation to traffic management, disruption management and crisis management.	Article 53(2)
Arrangements for simulation and training, in particular in relation to disruptions and crisis situations	Article 47(7)
Arrangements for simulation and training, in particular in relation to Common method to estimate the conditions on duration and likely impact on traffic and the content of the incident report of the Network disruptions and crisis situations. Coordinator Arrangements to review the performance of traffic management, disruption management and crisis management, including the coordination between operational stakeholders. Article 50, Article 51	Article 42, Article 46, Article 47(5a)

Guidelines with the purpose of ensuring appropriate and regular consultation of interested parties regarding European and cross-border matters

Article 54(1)

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Annex VI

Network Disruptions referred to in Article 46

Type of incident	Estimated likely duration	Estimated likely impact
Network disruption	The return to pre-incident levels of available capacity for train utilisation requires 3 or more days	– 50% or more of the trains on the affected section operating on a single network need an operational treatment – Less than 50% of trains on the affected section that operate on more than one network need or are expected to need an operational treatment
Multi-network disruption	The return to pre-incident levels of available capacity for train utilisation requires 3 or more days	– 50% or more of trains on the affected section that operate on more than one network need or are expected to need an operational treatment

Annex VII

CONTENTS OF THE EUROPEAN FRAMEWORK FOR PERFORMANCE REVIEW REFERRED TO IN ARTICLE 50

Performance areas subject to performance review referred to in Article 50

Performance area	Relevant issues (indicative)
Infrastructure and equipment	<ul style="list-style-type: none">– Capacity and capabilities of the physical infrastructure and its equipment, including deployment of TEN-T standards;– Reductions in infrastructure capacity or capability due to deferred infrastructure renewal, maintenance or repair.
Infrastructure capacity	<ul style="list-style-type: none">– Capacity offer in terms of quantity and quality;– Capacity utilisation, spare capacity to accommodate traffic growth;– Consistency between available capacity (planned or unplanned) and market needs, <i>at single and multi-network levels</i>;– Stability of the capacity offer, in particular in connection with infrastructure works;– Congested infrastructure;– Planned dwelling times of trains at border stations.
Traffic management	<ul style="list-style-type: none">– Punctuality / delays of different types of rail services, at origin, intermediate stops and destination and at operationally important locations;– Train cancellations;– Actual dwelling times of trains at border stations.

Disruption management and crisis management	<ul style="list-style-type: none"> – Share of traffic that could be re-routed or re-scheduled during the disruption or crisis; – Impact of disruptions on rail traffic in terms of delays and cancellations; – Impact of disruptions on operators of rail services and their customers; – Specific issues encountered (qualitative).
Deployment and performance of digital services, tools and interfaces	<ul style="list-style-type: none"> – Support of the processes related to capacity management, traffic management and disruption management; – Completeness and quality of the information and data provided <i>as well as ease of access for operational stakeholders</i>; – Alignment with European architecture developed in <i>ERJUEurope's Rail Joint Undertaking</i> and with the relevant technical specifications in accordance with Directive (EU) 2016/797.
Compliance with regulation; regulatory oversight	<ul style="list-style-type: none"> – Process indicators monitoring compliance with rules and procedures; – Complaints lodged with regulatory bodies and ENRRB.
<p><i>Arrangements to review the performance of traffic management, disruptions management and crisis management, including the coordination between operational stakeholders</i></p>	
<p><i>Guidelines with the purpose of ensuring appropriate and regular consultation of interested parties regarding European and cross-border matters, as referred to in Article 54(1)</i></p>	

Annex VIII

Information to be provided to operational stakeholders referred to in Article 48

Information to be provided to operational stakeholders referred to in Article 48

The following information, provided *where applicable* in accordance with Directive (EU) 2016/797 and *the* relevant implementing acts ~~under that adopted on the basis thereof, and subject to the respective responsibilities of stakeholders as referred to by the Commission Regulation (EU) No 1305/2014 and Commission Regulation (EU) No 454/2011 as amended~~ shall be ~~in the~~ scope of ~~provided under~~ Article 48:

Information provided by the infrastructure manager:

- - Train running number
- - Train reporting
- - ***Path allocation***
- - ***Train running information and train running forecast***
- - ***Service disruption information***
- - ***Data exchange for quality improvement***

Information provided by other operational stakeholders:

- - Consignment note data
- - Path request and path allocation
- - Train preparation
- - Train running information and train running forecast
- - Service disruption information
- - Shipment Estimated Time of Departure (ETD), Estimated Time of Interchange (ETI), Estimated Time of Arrival (ETA)

- - Wagon movement
- - Data exchange for quality improvement



Annex IX

List of issues for coordination between infrastructure managers referred to in Article 53

Issues for coordination	Provisions to be covered by coordination
Strategic capacity planning	Section 1 of Chapter II, in particular: Article 10 Section 2 of Chapter II, in particular: Article 11 Article 13 Article 14 Article 15 Article 16 Article 17 Article 18 Article 19 Article 21 Article 22 Article 25
Scheduling, capacity allocation and rescheduling	Section 3 of Chapter II, in particular: Article 27 Article 28 Article 31 Article 32 Article 33 Article 34 Article 35 Article 36 Article 37 Section 4 of Chapter II Article 39 Article 40 Article 41
Traffic management, disruption management and crisis management	Chapter III, in particular: Article 45 Article 46 Article 47
Performance review	Chapter IV, in particular: Article 51
Deployment of digital services, tools and interfaces; contribution to development of technical specifications	Article 9(2) Article 20(4) Article 27(4) Article 29(5), Article 29(6) Article 42(3), point (c) Article 45, point (c) Article 48(2), Article 48(3) Article 62

Annex X

Correlation Tables

Correlation Tables

- 1. Correlation table for the provisions deleted in Directive 2012/34/EU

Directive 2012/34/EU	This Regulation
Article 2(6)	Article 36(2) 38(2)
Article 3, point 20	Article 21 <i>and Annex II</i>
Article 3, point 22	Article 36 Articles 36 and 37
Article 3, point 23	Article 4, point 5 and Article 31
Article 3, point 27	Article 4, point 8
Article 3, point 28	Article 4, point 13
Article 7b(1)	Article 3(1)
Article 7b(2)	Article 3(2)
Article 7b(3)	Article 3(3) and Article 2(3), point b
Article 36	Article 40
Article 38(1)	Article 26(1), second subparagraph and Article 26(6)
Article 38(2)	Article 26(3)
Article 38(3)	Article 26(4)
Article 38(4)	Article 26(5) 26(7)
Article 39(1)	Article 11(3)
Article 39(2)	Article 27(3) 3(1a)
Article 40(1)	Article 14(2) 14, (3) and Article 28 <i>and Article 53</i>
Article 40(2)	Article 55(7), Article 57(2), Article 63(1), (4) , Article 64(1) and (7)
Article 40(3)	Article 55 (2), (5) and (7) 55(2) and (5)

Article 40(4)	Article 57(1)
Article 40(5)	
Article 41(1)	Article 7(1)
Article 41(2)	Article 7 (2)
Article 41(3)	Article 7(3)
Article 42(1)	Article 31(1)
Article 42(2)	Article 31(4)
Article 42(3)	Article 31(5)
Article 42(4)	Article 31(5) and (6)
Article 42(5)	Article 31(7) and Annex I, section 5
Article 42(6)	Article 31(8)
Article 42(7)	Article 31(10)
Article 42(8)	Article 31(11)
Article 43(1)	Article 38(1), Article 32(6), (7), (8) and , Article 33(1) and (2) and Annex I, sections 2, 4, 5, 6 and 7
Article 43(2)	Article 10(8), Article 11(2), Article 21(9), Article 38(3), and Article 39(9)
Article 43(3)	n/a
Article 44(1)	Article 26(1)
Article 44(2)	Article 32(7) and 32(8) ⁽⁸⁾
Article 44(3)	Article 31(2)
Article 44(4)	Article 28 and Article 62(5)
Article 45(1)	Article 32(2)
Article 45(2)	Article 32(4) ²⁵
Article 45(3)	Article 32(10)
Article 45(4)	Article 32(11)

Article 46(1)	Article 8(3) 8(2a) and (3) , Article 20(3) and Article 32(3) 36(1)
Article 46(2)	Article 36(2)
Article 46(3)	Article 36(3)
Article 46(4)	Article 36(4)
Article 46(5)	Article 36(5) 36(2)
Article 46(6)	Article 36(6) 37
Article 47(1)	Article 21(1) and Annex II
Article 47(2)	Article 21(4)
Article 47(3)	Article 21(5) 21(6) , Article 25(1)
Article 47(4)	Article 8(1), (2), (4) and (2) and Article 11(3)
Article 47(5)	Article 8(1) and (4) Article 33
Article 47(6)	Article 21(6)
Article 48(1)	Article 34(1)
Article 48(2)	Article 18(4)
Article 49(1)	Article 24(1)
Article 49(2)	Article 24(2)
Article 49(3)	Article 24(3)
Article 50(1)	Article 22(1)
Article 50(2)	Article 22(2)
Article 50(3)	Article 22(1)
Article 51(1)	Article 23(1)
Article 51(2)	Article 23(1) and (2)
Article 51(3)	Article 23(4)
Article 51(4)	Article 23(5)
Article 52(1)	Article 12(8)

Article 52(2)	Article 27(6)
Article 53(1)	Article 35(1)
Article 53(2)	Article 10(2), (4) and Article 35(4)
Article 53(3)	Article 9(1)
Article 54(1)	Article 43(3)
Article 54(2)	Article 43(5)
Article 54(3)	Article 43(6)

– 2. Correlation table for Regulation (EU) No 913/2010

Regulation (EU) No 913/2010	This Regulation
Articles 1 to 7	
Article 8	Articles 55(1) to (4), (6), (7) and (8) and Article 56(1)(a) to (c), (f) and (2)
Article 9(1)	Article 14(1), Article 22(3) and (4), Article 23(3) and Article 57
Article 9(1)(a), (c), (d), (e), (2), (3), (4) and (5)	
Article 9(1)(b)	Article 15 and Article 22(3) and (4)
Article 10	
Article 11	Article 55(1) to (4), (6), (7) and (8)
Articles 12-18	
Article 19	Article 49 and Article 5265(7) and (8)
Articles 20 to 25	