Council of the European Union
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Interinstitutional files:
2023/0271 (COD)

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LIMITE

TRANS

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Land Transport
N° prev. doc.:	ST 12732/4/25 REV 4
N° Cion doc.:	ST 11718/23 + ADD 1 - 4
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 - Consolidated 4-column document - Comments from Portugal

Delegations will find, attached, comments from **Portugal** on the above-mentioned document.

Council of the European Union

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Brussels, 24 October 2025
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12732/4/25
REV 4

LIMITE

TRANS 378
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Interinstitutional File:
2023/0271 (COD)

WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Delegations
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 913/201 - Consolidated 4-column document

In view of the Land transport working party on 31 October, delegations can find in annex a REVISED version of the consolidated 4-column document, reflecting the situation after the 32nd ITM. The 4th column (draft agreement) is compared with the 3rd column (Council mandate).

Compared to ST 12732/2/25 REV 3, which reflected the status after the 30th ITM, additional lines are provisionally agreed in ITM 31 and 32 on 20 and 22 October. Most lines are 'green', with some lines remaining 'yellow', as in the 'yellow' lines some aspects remain to be decided or confirmed while there is overall agreement on the concept. The lines are marked 'provisionally agreed', even if some of the lines are still not completely decided. On the outstanding issues, there is a comment provided to help delegations better understand the situation.

There is a new compromise text for Article 10a with an additional line 138i clarifying that a Member State concerned can ask for a recommendation from the Commission.

There is new compromise text related to what the Commission presented before in document WK 12472/25 and related to military mobility and crisis situations. There is overall agreement with the Parliament to include these lines, except for line 354i (Article 28).

There is new compromise text related to empowerments in Article 70a and 70b. The deadlines have been filled in and there is additional text (line 703c and 703o) to explain that ENIM can have

a second chance based on the recommendations from the APP report to correct significant shortcomings.

Definition (17d) in line 84d has been amended by deleting the word 'defined': …"sections and nodes of a ~~defined~~ network"…

The text on the frameworks (Article 6, 44 and 50) has been consolidated and aligned to ensure consistency and a uniform formulation of the rules. Specific elements were missing in one or two of the frameworks compared to the other articles. The approach is that in the first paragraph it is mentioned that 'infrastructure managers shall take the *utmost* account of', to avoid having to repeat 'utmost' in the rest of the Article. It is clarified that when updating the frameworks, ENIM shall consult the stakeholders another time, following the same procedure as for the initial draft of the framework. Aspects related to the network statement and the regulatory body have been complemented where these were missing.

A revised compromise proposal in Article 40 (penalties), Annex I section 3 and section 8 is still being finalised. A new version for Article 40 will be distributed in document ST 14111/25.

Additional lines provisionally agreed in ITM 31 and 32, or compromise proposals by the Presidency:

- Recitals: line 12a-c, 24, 25b, 25c, 33a and 41a;
- Article 1: line 45, 45a, 46, 47a and 47b;
- Article 3: line 63 and 64;
- Article 4: line 84b-84d;
- Article 6: line 95 and 98;
- Article 10: line 136, 138c and 138d;
- Article 10a: line 138i;
- Article 11: line 155a;
- Article 19: line 267;
- Article 21: line 285a;
- Article 23: line 306;
- Article 25: line 319 and 321i;
- Article 28: line 354a;
- Article 31: line 384;
- Article 33: line 414a;
- Article 37: line 442 and 442n;
- Article 41: line 480 and 482a;
- Article 44: line 505, 506, 507, 508, 508a and 508b;
- Article 46: line 520a and 523;
- Article 47: line 525 and 535;
- Article 50: line 549, 549b, 555, 556 and 557;
- Article 53: line 589;
- Article 56: line 611a;
- Article 61: line 638 and 639;

- Article 63: line 653, 653a and 654;
- Article 65: line 667 and 672a;
- Article 67: line 680 and 683c;
- Article 68: line 687a and 687b;
- Article 70a: line 703c;
- Article 70b: line 703o;
- Article 71: line 706, 706a, 706b, 706c and 706d;
- Article 73: line 712, 715, 715a, 716, 717, 718, 718a and 718b;
- Article 74: line 725a and 725b;
- Article 74b: line 730d;
- Article 75: 732, 733 and 733a;
- Article 77: line 742 and 743;
- Annex I, section 4: line 796 (table 4);
- Annex I, section 7: line 808 (table 7);
- Annex I, section 8: line 811 (table 8).

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PORTUGAL COMMENTS

(ST 12732-re04/25)

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- Line 41 a - the text is too complex thus it does not clearly define what is intended by this recital. If we wish to say that this regulation reinforces the need for compliance with the CER directive in particular with definition of *"measures to achieve a high level of resilience of critical entities that provide essential services within the Union".* Something less complicated could be proposed.
- Line 95 - PT still prefers the 24 months proposed by the Council.
- Line 136 - this is not acceptable for Portugal, as such we subscribe the Council's text.
- Line 319 - As we previously informed for Portugal the formula and process of how to calculate the utilized capacity will be a key concern. In our opinion the harmonization of the input data, the calculation methodology and the digitalization of the process will dictate the success or failure of this approach.
- Line 505 - PT does not support contracting the deadline even further.
- Line 507 - PT does not support contracting the deadline even further.
- Line 520 a - This process is way too bureaucratic to be implemented by the IM in a daily basis.
- Line 703c - PT considers that one year is too short for the implementation to be accessed. We propose 24 months.
- Line 172 - PT proposes changing the timeline to 7-10 years.
- Line 808 - PT strongly defends that when establishing deadlines for the IMs to respond to ad-hoc requests from the applicants, the same methodology as the one agreed within RNE (1.2_HB_Ad_Hoc_Management_V3.0_2020-12-09.pdf (rne.eu)) should apply.
- Most important a distinction between "ad hoc requests for individual train path" and "ad hoc requests for recurrent train path" should be reflected in the regulation.
- The complexity of preparing the replies to each type of requests is completely different and it should be reflected in the deadlines defined in the regulation.
- **PT accepts all remaining PRES DK compromise proposals listed above.**