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Opinion of the European Economic and Social Committee on the 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

(COM(2023) 443 final — 2023/0271 COD)

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Rapporteur: **Angelo PAGLIARA**

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Legal basis	Article 91 and 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Transport, Energy, Infrastructure and the Information Society
Adopted in section	6.9.2023
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Plenary session No	582
Outcome of vote (for/against/abstentions)	160/2/2

1. Conclusions and recommendations

1.1. The European Economic and Social Committee (EESC) fully supports the objectives of the Greening Transport Package; in particular, it welcomes the proposal on the use of railway infrastructure capacity and the ambitious goals for rail transport, which is a crucial pillar of a green and sustainable transport system.

1.2. The EESC is aware of the need to efficiently allocate rail capacity. The various modes of transport, such as passenger and freight, long-distance and local, national and international, involve multiple stakeholders and often opposing interests. The EESC urges the Commission to strike the right balance between these different interests by prioritising the public interest.

1.3. The EESC calls on the Commission to promote an active EU policy focused on investment in building new infrastructure and maintaining existing infrastructure, focusing not only on international and high-speed long-distance lines but also on local and regional lines.

1.4. The EESC underlines the importance of social dialogue in the introduction of any new digital tools in the workplace. New methods and tools for planning the infrastructure capacity of European railways should be accompanied by a meaningful dialogue between the workers and companies using these systems, as well as by a thorough assessment of the impact on employees and the additional training requirements.

1.5. The EESC considers that the proposed capacity planning will affect infrastructure managers and workers in particular. The occupational health and safety of infrastructure maintenance workers should be a priority in capacity planning and implementation.

1.6. The free movement of persons and goods is one of the fundamental freedoms of the EU. Considering the great potential of railways, the EESC welcomes the initiative and urges the European Commission to put in place all necessary complementary measures, not only to make rail transport more attractive, accessible to people with disabilities and affordable for the public but also to invest in the sector's employees and improve their working conditions, skills and competencies.

2. General comments

2.1. Rail transport is an energy-efficient and environmentally friendly mode of transport. According to the data provided in the proposal for a Regulation ⁽¹⁾, in 2020, rail transport in the EU accounted for 5,1 % of passenger transport and 11,5 % of freight transport, but only 0,4 % of greenhouse gas emissions. In addition, rail transport only uses 1,9 % of transport energy consumption, due to the fact that most train journeys are made on electrified lines.

2.2. According to the Sustainable and Mobility Strategy of 2020 ⁽²⁾, rail freight traffic should increase by 50 % by 2030 and double by 2050, while traffic on high-speed rail should double by 2030 and triple by 2050. Considering that the rail network is largely electrified, an increase in the use of rail services could help reduce emissions by helping achieve the objectives of the Green Deal.

2.3. With an increasing proportion of the EU's railway network suffering from congestion and unable to accommodate the capacity requirements of all applicants for paths, the future growth of railway traffic deemed necessary to decarbonise transport is under threat.

2.4. The European Commission is therefore proposing a more flexible and effective method for capacity and traffic management, which it says will increase both the quality of available services and use of the continent's railway network, supporting decarbonisation.

2.5. Interestingly, the proposal is stepping back from the 2010 Rail Freight Corridors Regulation by abolishing the corridor concept for capacity management but retaining and further developing what it describes as the positive elements of the Regulation. It says the results of this exercise have been unsatisfactory as managing capacity on a corridor basis does not reflect how freight trains typically operate. In addition, the growing focus on cross-border services compounds the problem as passenger and freight flows do not always coincide.

While the EESC understands why the Commission wants to stop using the corridor approach to capacity management, it underlines that the development of the TEN-T corridors should continue to be a priority.

2.6. Cross-border rail services require better coordination across networks than currently exists. Stronger mechanisms are needed for better coordination between national infrastructure managers (IMs) and others involved in running cross-border train services.

2.7. The proposal intends to allow rail infrastructure capacity to be allocated more effectively by introducing flexibility into the process and giving IMs a greater role in determining transport needs.

2.8. The proposal builds on work conducted by the sector as part of the Timetable Redesign for Smart Capacity Management (TTR) project, which aims to address the weaknesses in the current processes for managing infrastructure capacity and rail traffic, with the proposal in effect providing a legal framework for the full implementation of the TTR process.

2.9. The proposal will introduce incentives for both IMs and railway companies to honour capacity-related commitments and avoid changes at short notice.

⁽¹⁾ 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 2021/34/EU and repealing Regulation (EU) No 913/2010 (COM(2023) 443 final).

⁽²⁾ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on Sustainable and Smart Mobility Strategy — putting European transport on track for the future (COM(2020) 789 final).

2.10. It states that the role of the European Network of Infrastructure Managers (ENIM) should be strengthened with a view to entrusting it with the development and implementation of procedures and methodologies to manage capacity and coordinate cross-border capacity and traffic. It is also necessary to provide structured coordination between IMs and operators using the network, including by improving data exchanges between IMs. The deployment of interoperable digital tools and increased automation is considered a priority.

2.11. As a consequence, digitalisation of capacity-related processes is expected to make services more efficient, improve their quality and give IMs the capacity to deal with unexpected events.

3. Specific comments

3.1. The EESC regrets to note that the proposal includes no reference to railway workers or the higher administrative costs for IMs leading to the need for more resources. It also regrets the lack of a counterpart to ENIM for railway undertakings (RUs) and terminals. The EESC calls on the European Commission to come up with a coherent strategy to promote green freight transport in the long term. The proposed Greening Freight Package lacks consistency, as it threatens to lead to a reverse modal shift from rail to road by facilitating cross-border operations for fossil fuel-powered gigaliners.

3.2. This change to capacity planning will have implications for the daily work of railway workers, notably of IMs, which will be under pressure to recruit additional staff to carry out the growing administrative work. Furthermore, the occupational health and safety of infrastructure maintenance workers should be a priority in the capacity planning process.

3.3. Therefore, the Committee deems it necessary to assess the impact of this on the number and nature of jobs at IM and RU level as well as the training requirements, especially for workers directly involved in the capacity planning process.

3.4. The EESC welcomes the ambitious goals for rail transport, which is the backbone of a sustainable transport system. More efficiently allocating infrastructure capacity can create much-needed additional capacity in the short term and improve planning for long-term needs.

3.5. The EESC also supports the continued efforts to harmonise technical differences in the European rail network.

3.6. The EESC regrets to note that the results of the Regulation will only be visible after 2030. Therefore, the EESC recommends speeding up the implementation of certain elements in order to achieve concrete results by 2025, such as digitalisation of tools and digital capacity management (DCM). The EESC considers it crucial to speed up the deployment and implementation of digital tools in the coming years to partially meet the growing demand of rail traffic and the Green Deal and Sustainable and Smart Mobility Strategy objectives.

3.7. The EESC welcomes the introduction of (multi-year) rolling planning and framework agreements. However, it is important to point out that the mandatory use of framework agreements by IMs must go hand in hand with a revision of Commission Implementing Regulation (EU) 2016/545 ⁽³⁾. Framework agreements are regulated in this Regulation in such a way that their use is extremely bureaucratic and burdensome for IMs. For this reason, many European IMs have so far opposed their use.

3.8. The new 'rolling planning' concept is a key element in ensuring that the new capacity allocation and management process fits market needs. At the same time, national characteristics must be allowed for, as long as they do not undermine the overall implementation process.

⁽³⁾ Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity (OJ L 94, 8.4.2016, p. 1).

However, the EESC also notes that massive public investment and stable funding are needed in the medium and long term to build new infrastructure and maintain and upgrade existing lines while also investing in digitalised tools such as DCM. The EESC believes that it is crucial for the rail sector that the deployment and implementation of DCM be sped up in the coming years. To that end, the European Commission should ensure that sufficient financing is available for full TTR implementation, including DCM. Investment in the European Rail Traffic Management System (ERTMS) should also be promoted, as ERTMS can potentially increase infrastructure capacity.

3.9. The EESC welcomes the European Commission's reliance on expertise from the sector, namely the results of the TTR project and other sector initiatives such as contingency management and the European Traffic Management Network. Rail infrastructure capacity allocation is an extremely complex puzzle. The implications of any changes to the system need to be carefully analysed. The new capacity process addresses the current lack of harmonisation, synchronisation and coordination in capacity allocation processes in the EU. With its strong basis in sectoral expertise, the proposal can ensure that the new model better meets the actual needs of rail infrastructure and users.

3.10. To improve cross-border traffic, the proposal calls for the harmonisation of the rules and procedures governing the management of rail infrastructure capacity.

In this respect, the EESC stresses that the principles of subsidiarity and proportionality must always be respected. Adding additional layers of coordination and/or bureaucracy to an already complex system — such as establishing a Performance Review Body to advise the European Commission on all areas that influence the performance of rail services and infrastructure management, establish a common framework to review performance and ensure that IMs use common principles and methodologies to measure performance through agreed indicators, helping to identify deficiencies in network performance — should be limited to what is really necessary. It is important to use a well-defined but limited set of KPIs. The Performance Review Body must incorporate the experience and knowledge of IMs and RUs, in a balanced manner.

The EESC considers that this legislative initiative should be limited only to what is necessary to implement the TTR and should mostly build on the existing provisions of the Single European Railway Area (SERA) Directive.

3.11. The EESC believes that earlier clarity on path allocation and more flexibility will make rail more attractive for both (long-distance) passengers and freight transport.

3.12. While optimising the capacity allocation of rail infrastructure is undeniably a step forward in promoting rail as a sustainable mode of transport, the EESC also underlines the sector's assessment that this will lead to a maximum increase of 3 % in usable capacity and a > 0,5 % modal shift from road to rail ⁽⁴⁾.

Current rail infrastructure is not at all sufficient to meet demand. Building new infrastructure and properly maintaining the existing network will significantly increase capacity as well as the quality of the infrastructure and rail passenger and freight services.

3.13. The Committee therefore welcomes the European Commission's acknowledgement that there are other challenges for the railway sector that might be even more impactful, notably the 'insufficient internalisation of the external costs of transport across modes; insufficient or poorly maintained rail infrastructure' and 'the lack of technical and operational interoperability of national rail systems in the EU'.

⁽⁴⁾ CER (2023) *Rail infrastructure capacity and traffic management: implementation of TTR and DCM*: https://www.cer.be/images/publications/positions/230201_CER_Position_Paper_TTR_and_DCM.pdf

3.14. The EESC recognises that, while rail capacity should be allocated as efficiently as possible, the choice between passenger and freight, long-distance and local, and national and international will always be a balancing act between different interests. These choices are not neutral and will affect how railways serve our public interests. It is therefore crucial that there is sufficient focus on local and regional lines. In any case, achieving the goals of the Green Deal will not be possible without regional transport due to its massive volume. The Regulation's network approach vis-à-vis the corridor approach is welcome in this regard.

3.15. The EESC agrees that international rail freight is crucial in making goods transport in Europe more sustainable, but it regrets to conclude that the EU policies of the past few decades, which fully liberalised the sector in 2006, have not increased the share of rail freight in Europe. An active EU policy focused on investment and promoting cooperation between rail freight companies across borders is needed to boost rail freight. An 'RU Platform' similar to the IM one (PRIME/ENIM), as well as technical working groups, similar to the current Rail Freight Corridor structure of Railway Undertaking Advisory Groups (RAGs)/Terminal Advisory Group (TAGs), would keep the market voice balanced and provide a symmetrical counterpoint to ENIM vis-à-vis the Commission, as well as an interface for the European Network of Rail Regulatory Bodies (ENRRB).

In addition, the EESC supports the further development and (EU) funding of digital automatic coupling (DAC) to promote rail freight in Europe.

3.16. The EESC fully supports the Greening Transport Package's objectives of making transport in Europe more sustainable and achieving a modal shift in freight transport from road to rail. However, the Committee has noted that the Package falls short of delivering measures that will truly lead to a modal shift in freight transport.

While more efficient allocation of rail infrastructure capacity is a step in the right direction, the European Commission is also proposing to ease cross-border operations for large fossil-fuel lorries, known as gighaliners. Not only are these lorries dangerous for other road users and often incompatible with multi-modal transport, but they will also lead to a reverse modal shift from rail to road.

3.17. Lastly, the EESC regrets to note that the European Commission's approach to promoting rail freight as the sustainable backbone of the European transport policy does not seem to be consistent. Recent investigations into possible illegal State aid to two of the EU's largest rail freight operators⁽⁹⁾ do the exact opposite. They discourage Member States from investing in the promotion of rail freight as a sustainable alternative to road transport.

3.18. The EESC calls on the European Commission to come up with a coherent strategy to promote green freight transport in the long term. The proposed Greening Freight Package lacks consistency, as it threatens to lead to a reverse modal shift from rail to road by facilitating cross-border operations for fossil fuel-powered gighaliners.

Brussels, 25 October 2023.

*The President
of the European Economic and Social Committee*
Oliver RÖPKE

⁽⁹⁾ State aid: Commission opens in-depth investigation into German support measures in favour of DB: https://ec.europa.eu/commission/presscorner/detail/en/IP_22_681 and State aid: Commission opens in-depth investigation into French support measures in favour of Fret SNCF: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_243