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Subject:	Position of the Council at first reading with a view to the adoption of 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 – Adopted by the Council on 21 April 2026

REGULATION (EU) 2026/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

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 Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C, C/2024/891, 6.2.2024, ELI: http://data.europa.eu/eli/C/2024/891/oj.
2 OJ C, C/2024/1982, 18.3.2024, ELI: http://data.europa.eu/eli/C/2024/1982/oj.
3 Position of the European Parliament of 12 March 2024 (OJ C, C/2025/1020, 27.2.2025, ELI: http://data.europa.eu/eli/C/2025/1020/oj) and position of the Council at first reading of 21 April 2026 (not yet published in the Official Journal). Position of the European Parliament of … (not yet published in the Official Journal).

Whereas:

(1) The Commission communication of 11 December 2019 entitled 'The European Green Deal' 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 50 % and towards 55 % by 2030 compared to 1990 levels. Both objectives are enshrined in Regulation (EU) 2021/1119 of the European Parliament and of the Council[4]. The European Green Deal calls for a 90 % reduction in greenhouse gas emissions from transport, while working towards the zero-pollution ambition to reduce by 2030 the health impacts of air pollutant emissions by more than 55 % and the share of people chronically disturbed by transport noise by 30 %. Transport represents around 25 % of the Union's total greenhouse gas emissions, and these emissions 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. Since rail transport is a largely electrified and energy-efficient mode of transport, greater use of rail services should contribute to reducing transport's emissions and energy consumption.

[4] Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (OJ L 243, 9 7 2021, p.1, ELI: http://data.europa.eu/eli/reg/2021/1119/oj).

(2) The Commission communication of 9 December 2020 entitled ‘Sustainable and Smart Mobility Strategy – putting European transport on track for the future’ 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 will increase by 50 % by 2030 and double by 2050, traffic on high-speed rail will 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 those goals, rail transport 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.

(3) The underlying aim of this Regulation is to increase the utilisation of railway infrastructure by making a more efficient use of that infrastructure through better planning and allocation processes, and through improved cross-border coordination, and thereby to contribute to an increase of rail services in line with the Union’s decarbonisation targets. However, additional 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 to increase the overall competitiveness of rail.

(4) Directive 2012/34/EU of the European Parliament and of the Council[5] lays down the rules applicable to the management and operation of railway infrastructure and the principles and procedures applicable to capacity allocation for domestic and international rail services.

(5) Regulation (EU) No 913/2010 of the European Parliament and of the Council[6] provides for the establishment of rail freight corridors and one-stop shops in order to facilitate requests for infrastructure capacities for international rail freight services.

(6) Management of railway infrastructure capacity and rail traffic management are crucial to the good functioning of the rail sector. The operation of rail transport services, in particular of 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 safely share the same tracks. Optimal and harmonised management of railway infrastructure capacity creates more opportunities and increases reliability of rail services. This Regulation should provide infrastructure managers with sufficient flexibility for effective management of railway infrastructure capacity while making sure that all applicants are treated in an equitable, transparent and non-discriminatory manner, ensuring fair competition, in their access to the rail network.

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5 Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32, ELI: http://data.europa.eu/eli/dir/2012/34/oj).

6 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, ELI: http://data.europa.eu/eli/reg/2010/913/oj).

(7) Directive 2012/34/EU recognises the right of Member States not to apply the rules on railway 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. Such exclusions, in strictly limited and duly justified cases, should continue to apply and Member States should retain the right to request them in the future also in relation to this Regulation.

(8) The operation of the Channel Fixed Link is regulated in particular by the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link, signed at Canterbury on 12 February 1986 (the 'Treaty of Canterbury'), and the Concession Agreement between the Secretary of State for Transport, Le Ministre de I'Urbanisme du Logement et des Transports, The Channel Tunnel Group Limited and France-Manche S.A., signed on 14 March 1986 and amended several times since then (the 'Concession Agreement'). In accordance with the Treaty of Canterbury and the Concession Agreement, the concessionaires are to manage the railway infrastructure and to operate a shuttle service for road vehicles. Directive 2012/34/EU, with the exception of certain provisions, does not apply to undertakings the business of which is limited to providing solely shuttle services for road vehicles through the Channel fixed link or to transport operations in the form of shuttle services for road vehicles through that fixed link. Similarly, it is not appropriate to apply this Regulation to the management of railway infrastructure capacity for the operation of such services. Unless otherwise provided, this Regulation should apply to the management of railway infrastructure capacity for the operation of other services, such as passenger and freight trains.

(9) 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 with infrastructure managers managing railway 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 complying with the obligations laid down in this Regulation.

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

(11) Transport infrastructure is the backbone of the economy and society as a whole. Some railway infrastructure is critical to ensuring 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 dangerous goods or weapons having illegally entered the Union on the railway infrastructure of a Member State. In order to guarantee smooth, safe and secure rail transport traffic and to ensure the protection of their railway 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 railway 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 should be able to take into account, among other factors, the fact that the applicant is subject to restrictive measures adopted by the Union and the reasons for adopting such measures, that the applicant 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 a decision should be regularly reviewed by the Member State, in particular by assessing 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 the event that the latter raise concerns with the decision adopted. Where the concern raised by a Member State is not resolved through coordination, the Member State concerned should be able to request a recommendation from the Commission on the decision adopted by another Member State.

(12) Member States should have the right to provide the infrastructure manager with strategic guidance, to ensure that the planning and use of railway infrastructure 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.

(13) As infrastructure managers might be required to apply a specific timetable design, a multi-network train service might be subjected to different timetable designs. In light of this but also of other factors, 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 practices for timetable planning are used in Member States, those practices necessitate increased coordination also between infrastructure managers across borders, in particular when infrastructure managers are required to pre-plan capacity by using clock-face timetables.

(14) The rules and procedures on the management of railway infrastructure capacity should consider and satisfy the needs of all rail market segments in a non-discriminatory way. They should take into account in particular 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: 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.

(15) An increasing portion of the Union rail network is either congested or close to congested and cannot accommodate the needs for railway 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[7], 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 are unlikely to be able to satisfy all capacity requests for the use of highly utilised or congested railway infrastructure and should rely on sound planning to anticipate needs, provide early indications to applicants, and facilitate capacity allocation.

[7] 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 (recast) (OJ L 138, 26.5.2016, p. 44, ELI: http://data.europa.eu/eli/dir/2016/797/oj).

(16) In order to ensure optimal use of railway infrastructure capacity, socioeconomic, operational and environmental criteria should be taken into account during the planning and allocation process, in particular when assessing alternative capacity partitioning options on an element of railway 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 criteria have been taken into account and how they have affected the decisions taken.

(17) The European Network of Infrastructure Managers (ENIM) should provide guidance on how to establish a common objective, transparent and non-discriminatory methodology, which would be based on socio-economic, operational and environmental criteria for partitioning and allocating capacity. As this is a new methodology for deciding on capacity partitioning or on 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.

(18) Infrastructure managers should, where relevant, adjust the standard parameter values to take into account local or national circumstances based on accepted approaches and empirical evidence.

(19) The strategic capacity planning by infrastructure managers should improve the utilisation of railway infrastructure by anticipating demand for rail services, including by analysing expected transport market developments, and taking into account planned railway infrastructure development, renewal and maintenance. It should ensure that railway infrastructure capacity is allocated in a way that maximises the value of rail services for society. Infrastructure managers should ensure that strategic capacity planning provides progressively increasing levels of detail about available capacity, taking into account the feedback from operational stakeholders, and that it is the basis for the capacity allocation.

(20) 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 railway infrastructure and to extend such planning to other sections of the network if deemed necessary. Such 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 railway infrastructure by grouping trains with similar performance characteristics in the capacity allocation phase.

(21) When allocating capacity, infrastructure managers should adhere to their strategic planning for the supply of capacity, while at the same time 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 could be refused or given lower priority in the allocation phase. The capacity supply plan should be continuously updated to reflect the available capacity.

(22) Undertakings from different rail market segments have different abilities to anticipate their railway infrastructure capacity needs. Some freight service providers, in particular, might not be able to identify their capacity needs in time in order for those needs to be included in the working timetable, which is in the annual plan for train and rolling-stock movements, and those needs might not fit 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 could run repeatedly for a period of time that does not coincide with the duration of the working timetable period. For that purpose, it should be possible to reserve capacity for train paths that can then be allocated at short notice.

(23) Applicants for railway infrastructure capacity should be able to plan and request railway infrastructure capacity on an annual basis through the working timetable. Applicants should also be able to request railway infrastructure capacity further in 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 due to their characteristics, capacity allocation through the rolling planning process should concern at least rail freight services.

(24) A significant share of rail freight transport is long-distance and requires cross-border coordination between infrastructure managers. The policy goal of increasing rail traffic also relies on growing cross-border passenger services. To facilitate and promote 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 railway infrastructure capacity, while relying on the sector's experience and expertise for their definition. Accordingly, the role of ENIM should be strengthened by entrusting it with the development of guidelines to enable the uniform implementation of this Regulation's procedures and methodologies for the management of railway infrastructure capacity and the active coordination of cross-border capacity and traffic. In particular, 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 those European frameworks.

(25) The European framework for capacity management, the European framework for the coordination of cross-border traffic management, disruption management and crisis management and the European framework for performance review, which are all developed by ENIM, should provide guidelines setting out common tools, methodologies and procedural arrangements that enable the infrastructure managers' uniform implementation of this Regulation across the single European railway area, relating to the management of railway infrastructure capacity, coordination of cross-border traffic, management of traffic disruption and crisis situations as well as performance review. While those frameworks and the elements contained therein should 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 justify the reason for any deviation from those frameworks. That approach allows to strike the balance between the needs of coordination and application of uniform approaches in the single European railway area, and the need for adapting procedures and methodologies to the specific circumstances of given geographical areas. Where ENIM does not find an agreement on the common tools, methodologies and procedural arrangements and is therefore unable to develop the European frameworks, or where, in the event of such an agreement, those frameworks are inadequate to meet their intended objectives, or there are extensive deviations from the application of those frameworks which undermine the uniform implementation of this Regulation, the Commission should adopt implementing acts setting out binding rules on the common tools, methodologies and procedural arrangements necessary for the uniform implementation of those European frameworks or their elements.

(26) 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 railway infrastructure capacity.

(27) The rules on management of cross-border rail traffic under normal conditions and in the case of disturbances should promote the smooth, resilient and seamless operation of rail transport services. Those rules should provide for a system of structured coordination between infrastructure managers and other stakeholders.

(28) 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 consultation between infrastructure managers and other stakeholders. The European Railway Platform (the 'ERP') should be the platform to handle this structured consultation as it is expected to consist of representatives 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. The 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 European rail transport services.

(29) The reliability of rail services and knowing well in advance when the services are able to run are some of the aspects most valued by railway customers and applicants. The reliability of schedules is also a critical aspect of 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, and a system of adequate incentives should be introduced to promote the fulfilment of commitments by infrastructure managers, railway undertakings and other relevant stakeholders.

(30) This Regulation should set up a system of penalties to be paid where either the infrastructure manager or the applicant does not fulfil its commitments with respect to an allocated capacity right. The level 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 level of the penalty should also 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 modulation applied should be low when the quality of the alternative is high or when the capacity can be re-allocated. The modulation applied 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 whose currency is not the euro 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 the resolution of 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.

(31) The continuous monitoring of the quality of railway infrastructure services and of rail transport services is a precondition for improving the performance of those services. While infrastructure managers should monitor and benchmark the performance of railway infrastructure services and rail transport services at national level, ENIM should monitor the performance at Union 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 an advisory performance panel. The advisory performance panel 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 railway infrastructure management. It should also contribute to the performance review report.

(32) To improve the performance of railway infrastructure services in the single European railway area, ENIM should develop a European framework for performance review. The framework should aim to ensure that all Union infrastructure managers use common tools, methodologies and procedural arrangements for measuring performance through agreed indicators. It should allow for identification of performance deficiencies on the Union railway network. It should aim to ensure 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. It should allow infrastructure managers to cooperate at Union level in identifying measures to address performance deficiencies and to keep track of their impact. ENIM should review that framework regularly to ensure that it is fit for purpose.

(33) To ensure an effective coordination of infrastructure managers at Union level, ENIM should become more operational. It should include decision-making mechanisms which allow infrastructure managers to effectively coordinate on the strategic capacity planning.

(34) All Member States' infrastructure managers that are responsible for lines that form part of the core and extended core Trans-European Transport Network (the '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 could be invited to participate in the work of ENIM as observers, but without voting rights. Moreover, it is in the interest of the Union to allow for the participation in ENIM of infrastructure managers that are responsible for lines on the core or extended core TEN-T network of States that are members of the European Free Trade Association 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[8], 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 and parties 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 more Member States. Their contribution to ENIM work is therefore important.

[8] Council Decision (EU) 2017/1937 of 11 July 2017 on the signing, on behalf of the European Union, and provisional application of the Treaty establishing the Transport Community (OJ L 278, 27.10.2017, p. 1, ELI: http://data.europa.eu/eli/dec/2017/1937/oj).

(35) 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 (the 'ENRRB'), with a view to developing common practices in order to make the decisions for which they are empowered under this Regulation. For that purpose, the ENRRB should perform coordination tasks and may adopt non-binding recommendations, opinions or reports in relation to cross-border rail services and performance of railway infrastructure services and rail transport services. The recommendations and opinions 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.

(36) The efficient management of railway infrastructure capacity and rail traffic management require exchange of data and information between infrastructure managers, applicants and other operational stakeholders. That 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 in order to keep up with technological developments and the new processes provided for in this Regulation. As the European system authority for telematics applications, the European Union Agency for Railways (ERA) should be involved in the development and implementation of the digital tools referred to in this Regulation to ensure that they comply with the TSI for telematics applications as defined in Directive (EU) 2016/797 and in accordance with Article 23 of Regulation (EU) 2016/796 of the European Parliament and of the Council[9].

(37) Infrastructure managers should ensure alignment, in particular regarding digitalisation, with the work of the Europe's Rail Joint Undertaking established in Council Regulation (EU) 2021/2085[10], through the System Pillar Steering Group and the Deployment Group referred to respectively in Articles 96 and 97 of that Regulation.

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[9] Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/796/oj).

[10] Council Regulation (EU) 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe and repealing Regulations (EC) No 219/2007, (EU) No 557/2014, (EU) No 558/2014, (EU) No 559/2014, (EU) No 560/2014, (EU) No 561/2014 and (EU) No 642/2014 (OJ L 427, 30.11.2021, p. 17, ELI: http://data.europa.eu/eli/reg/2021/2085/oj).

(38) 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 on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of certain elements of the deliverables resulting from the strategic capacity planning; the schedule for the strategic capacity planning and the capacity allocation process; the duration for changes to allocated capacity and the construction of alternative solutions for applicants; certain elements related to schedule for coordination, consultation and publication of capacity restrictions resulting from railway infrastructure works; the thresholds for capacity utilisation of highly utilised and congested railway infrastructure; the adjustment of the levels of penalty to the inflation and the information to be provided to operational stakeholders. It is of particular importance that the Commission carry 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-Making[11]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at 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.

[11] OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

(39) In order 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, technical and operational requirements for contingency planning, detailed rules regarding the procedure for concluding framework agreements, the form and the content of such framework agreements, and detailed rules regarding the rolling planning process and related to the European frameworks. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[12]. Where the committee established under Directive 2012/34/EU delivers no opinion in the framework of the examination procedure, the Commission should not adopt the draft implementing act.

(40) 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 railway 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.

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[12] 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, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

(41) The rules on capacity allocation set out in Directive 2012/34/EU are replaced by those laid down in this Regulation. Therefore, the rules on cooperation between infrastructure managers, the rules on cooperation between rail regulatory bodies, the requirements for the elements of the network statement describing the nature of the railway 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 not be affected by this Regulation.

(42) The ex-post evaluation of Regulation (EU) No 913/2010 concluded that the impact of that Regulation 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 railway infrastructure capacity was still ineffective from a cross-border perspective. That evaluation has also shown that managing the capacity on the rail freight corridors separately from the rest of the network is not efficient. A single regulatory framework should apply to the operation of railway infrastructure capacity, consolidating the related provisions in Directive 2012/34/EU and Regulation (EU) No 913/2010. Therefore, following a sufficient transition period, Regulation (EU) No 913/2010 should be repealed and the provisions in Directive 2012/34/EU on capacity allocation should be replaced by this Regulation.

(43) The preparation of a working timetable requires preparatory activities to be carried out in the years preceding the entry into force of that working timetable. Therefore, the transition from the regulatory framework established by Directive 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 regulatory framework should begin in parallel with the application of the rules under the current framework. A dual regime should therefore apply during a transitional period whereby the necessary preparatory steps for a working timetable should comply with the regulatory framework applicable to that specific working timetable. Framework agreements that have been concluded under the current framework should have the possibility to continue until their expiry.

(44) Under the new regulatory framework, the preparatory steps for a working timetable should begin with the start of the capacity strategy phase five years before the entry into force of that working timetable. That timeframe is consistent 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 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 simplified by reducing the capacity strategy phase. Accordingly, the first working timetable falling under the new regulatory framework should be the working timetable starting on 14 December 2030. With a view to complying with the new regulatory framework, all stakeholders should start the necessary preparations without delay.

(45) Directive (EU) 2022/2557 of the European Parliament and of the Council[13] lays down measures to achieve a high level of resilience for critical entities that provide essential services within the Union. Infrastructure managers within the scope of this Regulation are in principle also within scope of the that Directive. Directive (EU) 2022/2557 requires critical entities to take resilience-enhancing measures. This Regulation also requires 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, Directive (EU) 2022/2557. Infrastructure Managers are to ensure that they also fulfil their obligations under the Directive (EU) 2022/2557. Where infrastructure managers have already taken measures and drawn up documents pursuant to this Regulation, that are relevant for resilience-enhancing measures under Directive (EU) 2022/2557, they should be able to use those measures and documents to meet the requirements as regards resilience measures under that Directive.

[13] Directive (EU) 2022/2557 of the European Parliament and of the Council of 14 December 2022 on the resilience of critical entities and repealing Council Directive 2008/114/EC (OJ L 333, 27.12.2022, p. 164, ELI: http://data.europa.eu/eli/dir/2022/2557/oj).

(46) Since the objective of this Regulation, namely managing railway 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 cross-border effects 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 railway infrastructure capacity, to traffic management, to crisis management and to performance management, for domestic and international rail services, and to the coordination between infrastructure managers and other operational stakeholders, as well as the principles, rules and procedures applicable to the implementation of digital tools to support the capacity and traffic management processes in this Regulation. It also lays down rules for 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 as referred to in Article 1(2) of Directive 2012/34/EU, including service facilities as defined in Article 3, point (11), of that Directive.

3. Articles 2 and 3 of Chapter I and Chapters II to V of this Regulation shall not apply to railway infrastructure or rail services that a Member State has excluded from the application of Chapter IV of Directive 2012/34/EU in accordance with Article 2(3), (3a), (4), (8) and (8a) of that Directive during the period of validity of the relevant exclusions.

4. This Regulation shall not apply to rail 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.

5. This Regulation shall not apply to undertakings or to transport operations referred to in Article 2(9) of Directive 2012/34/EU.

6. This Regulation shall not apply to Cyprus and Malta for as long as no railway system is established within their territory.

7. This Regulation shall not prevent Member States from adopting measures necessary to safeguard essential security or defence interests or from adopting measures to ensure that the military have sufficient access to railway infrastructure, in particular for military operations and training, including the types of measures provided for in Article 49(1), points (a) to (e).

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.

2. Without prejudice to Article 7c of Directive 2012/34/EU, infrastructure managers shall be responsible for the management of railway infrastructure capacity and rail traffic management.

   References to an infrastructure manager in all provisions related to railway infrastructure capacity allocation in this Regulation shall be construed as references to the allocation body referred in Article 7a(3) of Directive 2012/34/EU.

3. With a view to facilitating the provision of efficient and effective railway infrastructure capacity and traffic management within the Union, infrastructure managers referred to in Article 58(3) 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.

4. In fulfilling their tasks and responsibilities in accordance with this Regulation, infrastructure managers shall:

(a) make optimum effective use of the available railway infrastructure through effective planning and coordination with the aim of increasing the share of rail transport relative to other transport modes, both for passenger and freight services, in accordance with the Union's climate targets;

(b) maximise the value to society of rail transport services enabled by railway infrastructure in social, economic and environmental terms;

(c) ensure non-discriminatory management of railway infrastructure capacity and equitable and transparent access thereto, including during railway infrastructure works, with a view to enabling fair competition and with the aim of guaranteeing 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 railway infrastructure capacity;

(f) review and improve the performance of railway infrastructure in close cooperation with 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 capacity and traffic management, including maintenance planning

1. Infrastructure managers shall carry out the functions of capacity and traffic management, including maintenance planning in an equitable, transparent and non-discriminatory manner. The persons in charge of taking decisions in respect of those functions shall not be affected by any conflict of interest.

2. Infrastructure managers shall respect the commercial confidentiality of information provided to them, in accordance with Union and national law, including, where appropriate, by anonymising the information shared with other parties.

3. As regards traffic management, infrastructure managers shall ensure that operational stakeholders, in cases of disruption concerning those stakeholders, have full and timely access to relevant information. Where the infrastructure manager grants access to the traffic management process, it shall do so for the operational stakeholder concerned in an equitable, transparent and non-discriminatory manner.

4. 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 shall take the utmost account of the concerns expressed by those applicants.

Article 4

Strategic guidance and national requirements

1. Member States may provide the infrastructure manager with strategic guidance based on the indicative railway infrastructure development strategies referred to in Article 8(1) of Directive 2012/34/EU. That strategic guidance, which shall be consistent with this Regulation, 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. It shall be provided in a timely manner, in order for infrastructure managers to be able to follow the deadlines set out in Annex I to this Regulation, 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 railway 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 railway infrastructure capacity, which the infrastructure manager shall take into account in strategic capacity planning, in particular in relation to highly utilised and congested railway infrastructure as referred to in Article 23 of this Regulation;

(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 of the elements of guidance referred to in this paragraph are binding by requiring infrastructure managers:

(a) to implement specific timetable designs, such as integrated clock-face timetables, for both freight and passenger services;

(b) to reserve minimum volumes of capacity for types of rail transport services referred to in Article 14 to reflect their transport policy priorities;

(c) to pre-plan railway infrastructure capacity on certain sections and nodes, in accordance with Article 20(5);

(d) to reflect national transport policy priorities by means of national parameters in the methodology for capacity partitioning in accordance with Article 27 and by means of national parameters in the methodology for formal conflict resolution in accordance with Article 39.

Such requirements shall not commit available capacity for any element of railway infrastructure to an extent that deprives the infrastructure manager of a sufficient operational margin to fulfil all the tasks and responsibilities laid down in Article 2(4).

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 equitable, transparent 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 and make such a document publicly available on their website. ENIM shall make the links to those documents available on its website.

4. With a view to supporting the development of international passenger and freight rail services, Member States shall coordinate with each other in accordance with Article 56 in order to ensure consistency between the respective strategic guidance and requirements they provide pursuant to this Article.

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 railway infrastructure capacity.

Article 5

Definitions

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

The following definitions also apply:

(1) '*force majeure*' means any unforeseeable, unavoidable or exceptional event or situation beyond the control of the operational stakeholder which cannot be 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 the operational stakeholder, which has actually happened and is objectively verifiable and which makes it impossible for the operational stakeholder to fulfil, temporarily or permanently, its obligations in accordance with this Regulation, Directive 2012/34/EU or its contractual obligations;

(2) 'interoperability' means interoperability as defined in Article 2, point (2), of Directive (EU) 2016/797 of the European Parliament and of the Council[14];

[14] 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 (recast) (OJ L 138, 26.5.2016, p. 44, ELI: http://data.europa.eu/eli/dir/2016/797/oj).

(3) ‘operational stakeholder’ means an applicant, railway undertaking, infrastructure manager, competent authority as referred to in Regulation (EC) No 1370/2007 of the European Parliament and of the Council[15], operator of service facilities or any other entity directly involved in operating a rail transport service;

(4) ‘European Coordinator’ means the Coordinator designated under Article 52 of Regulation (EU) 2024/1679 of the European Parliament and of the Council[16];

(5) ‘European Transport Corridors’ means the corridors referred to in Articles 7 and 11 of, and Annex III to, Regulation (EU) 2024/1679;

(6) ‘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 railway infrastructure capacity to be allocated and the charges to be levied over a period longer than one working timetable period;

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[15] Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1, ELI: http://data.europa.eu/eli/reg/2007/1370/oj).

[16] Regulation (EU) 2024/1679 of the European Parliament and of the Council of 13 June 2024 on Union guidelines for the development of the trans-European transport network, amending Regulations (EU) 2021/1153 and (EU) No 913/2010 and repealing Regulation (EU) No 1315/2013 (OJ L, 2024/1679, 28.6.2024, ELI: http://data.europa.eu/eli/reg/2024/1679/oj).

(7) ‘simultaneous capacity allocation’ means a process whereby infrastructure managers allocate railway 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 railway infrastructure and the closest possible match with the requests;

(8) ‘first come, first served principle’ means a principle for the allocation of railway infrastructure capacity where priority in the allocation process is given according to the chronological order of the capacity requests;

(9) ‘train path’ means the railway 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;

(10) ‘capacity specification’ means a capacity right which specifies the commercial and operational characteristics of the railway 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;

(11) ‘multi-network rail service’ means a rail transport service, freight or passenger, domestic or international, which is operated on two or more networks managed by different infrastructure managers; the train can be joined and/or split and the different sections cany have different origins and destinations;

(12) ‘multi-network capacity right’ means the entirety of capacity rights enabling the provision of a multi-network rail service;

(13) ‘partitioning of railway infrastructure capacity’ means assigning shares of the total available capacity of an element of railway infrastructure to different types of rail transport services and to capacity restrictions resulting from railway infrastructure work;

(14) ‘working timetable’ means the continuously updated data defining all planned train and rolling-stock movements which will take place on the relevant railway infrastructure, as expressed by allocated capacity rights, during a working timetable period;

(15) ‘working timetable period’ means the period of time during which a given working timetable is valid;

(16) ‘railway infrastructure work’ means an intervention on the railway infrastructure for the purpose of development, maintenance, renewal or upgrade of the railway infrastructure as defined in Article 3, points (2a), (2c), (2d) and (2e), respectively, of Directive 2012/34/EU;

(17) ‘regulatory body’ means the regulatory body referred to in Article 55 of Directive 2012/34/EU;

(18) ‘incident’ means any occurrence, or series of occurrences having the same origin, which causes disruption of rail traffic;

(19) '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 relevant characteristics of the supply of, and demand for, railway infrastructure capacity to be taken into account, in particular for the purpose of strategic capacity planning;

(20) ‘specific timetable design’ means a particular way of arranging the train paths in a timetable, including for multi-network traffic, with a view to pursuing particular policy objectives;

(21) ‘exceptional transport’ means exceptional transport as defined in Appendix J of Commission Implementing Regulation (EU) 2019/773[17];

(22) ‘clockface timetable’ means a specific timetable design aimed at replicating rail services at regular and consistent intervals and at combining 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;

[17] Commission Implementing Regulation (EU) 2019/773 of 16 May 2019 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision 2012/757/EU (OJ L 139I, 27.5.2019, p. 5, ELI: http://data.europa.eu/eli/reg_impl/2019/773/oj).

(23) ‘element of railway 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;

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

Chapter II

Management of railway infrastructure capacity

SECTION 1

GENERAL PRINCIPLES FOR THE MANAGEMENT OF RAILWAY INFRASTRUCTURE CAPACITY

Article 6

Capacity management

1. Infrastructure managers shall manage railway 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 railway 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) a section on the railway infrastructure made available to railway undertakings;

(b) a section on capacity management;

(c) a section on operations, including on traffic management, disruption management and crisis management; and

(d) a section on performance management, in accordance with Annex V to this Regulation.

3. Decision-making concerning capacity management as referred to in paragraph 1 of this Article, 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 the decision-making concerning capacity management.

Article 7

European framework for capacity management

1. By … [18 months from the date of entry into force of this Regulation] ENIM shall develop and adopt a 'European framework for capacity management', in accordance with the provisions of Article 4 and Chapter II, laying down common tools, methodologies and procedural arrangements for the management of railway 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 railway infrastructure capacity.

2. When preparing the network statement referred to in Article 27 of Directive 2012/34/EU and Article 6(2) of this Regulation, infrastructure managers shall take the utmost account of the European framework for capacity management. In the network statement they shall explain the reason for any deviation from the common tools, methodologies and procedural arrangements established in the European framework for capacity management.

3. ENIM shall publish a draft of the European framework for capacity management for the purpose of consulting the European Railway Platform (the 'ERP') and operational stakeholders. The ERP and operational stakeholders may submit their replies to the consultation within three months after the publication of this draft.

4. ENIM shall submit the final draft of the European framework for capacity management to the European Network of Rail Regulatory Bodies (the 'ENRRB') by … [12 months from the date of entry into force of this Regulation]. The ENRRB shall submit a recommendation to ENIM on the European framework for capacity management within three months of receipt of the draft prepared by ENIM. ENIM shall take the utmost account of this recommendation when adopting the European framework for capacity management.

5. 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 operational stakeholders as well as the activities of ENIM. When the European framework for capacity management is updated, ENIM shall consult the ERP and operational stakeholders, and submit the final draft to the ENRRB for recommendation, in accordance with paragraphs 3 and 4 of this Article.

6. When exercising its powers in relation to the network statement in accordance with Article 56(1) and (2) of Directive 2012/34/EU, the regulatory body shall take into account the recommendation on the European framework for capacity management adopted by the ENRRB, in accordance with paragraph 4 of this Article and without prejudice to the principle of independence of regulatory bodies.

7. The Commission is empowered, in accordance with Article 74, to adopt implementing acts setting out the European framework for capacity management, as referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

Article 8

Applicants

1. Applicants shall make requests for railway infrastructure capacity. In order to use such railway infrastructure capacity, applicants which are not railway undertakings shall appoint a railway undertaking. The railway undertaking shall conclude an agreement with the infrastructure manager in accordance with Article 28 of Directive 2012/34/EU. The conclusion of such an agreement by the railway undertaking is without prejudice to the right of applicants to conclude framework agreements with infrastructure managers under Article 33 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 railway infrastructure are safeguarded. Such requirements shall be appropriate, transparent and non-discriminatory. They may only include the provision of a financial guarantee that does not exceed an appropriate level which is proportional to the expected level of activity of the applicant and assurance of the capability to prepare compliant bids for railway infrastructure capacity. Those requirements shall be specified in the network statement in accordance with Annex V, point (2)(c).

3. The Commission may adopt implementing acts setting out the details of the criteria to be followed for the application of paragraph 2 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

Article 9

Management of railway infrastructure capacity

1. Infrastructure managers shall ensure that railway infrastructure capacity is managed in all phases of the capacity management process referred to in Article 6 of this Regulation in accordance with the principles set out in Article 26 of Directive 2012/34/EU and in Article 2 of this Regulation.

2. When taking decisions on railway infrastructure capacity, infrastructure managers shall take into account the strategic guidance and national requirements on the utilisation of railway infrastructure capacity provided by Member States in accordance with Article 4 where Member States have provided such guidance and requirements. Planning and capacity allocation shall follow equitable, transparent and non-discriminatory procedures.

3. Infrastructure managers shall plan and allocate capacity to the greatest extent possible, involving the applicants concerned, seeking solutions compatible with applicants' capacity needs and requests for capacity rights, while ensuring the overall optimal use of railway infrastructure on the network concerned.

Article 10

Information about railway infrastructure capacity

1. Infrastructure managers shall provide applicants and regulatory bodies and, where appropriate, other operational stakeholders, with accurate and up-to-date information on the availability of railway 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 provided for in Section 3 and whenever there are changes to allocated capacity as referred to in Section 4.

   Infrastructure managers shall publish without delay any update to the capacity supply plan referred to in Article 20 and to the working timetable referred to in Article 32.

2. Infrastructure managers shall publish the information referred to in paragraph 1 of this Article in accordance with Article 66(5).

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 respond to such requests in a single place and single operation or via a single interface.

Article 11

Capacity restrictions resulting from railway infrastructure work and degraded railway infrastructure

1. Without prejudice to Articles 7, 7a, 7c and 7e of Directive 2012/34/EU, infrastructure managers shall plan railway 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 railway infrastructure works, the infrastructure manager shall provide an overview of such amendments and their likely impact in the network statement.

2. When planning railway infrastructure works, the infrastructure manager shall act in accordance with Article 2(4) and Article 3.

In particular, the infrastructure manager shall take into account in a balanced way the impact of railway 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 railway infrastructure works in the context of the coordination mechanisms referred to in Article 7e of Directive 2012/34/EU and, as regards cross-border rail services, in accordance with Article 57 of this Regulation.

4. Infrastructure managers shall plan, inform and consult applicants on capacity restrictions resulting from railway 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.

5. For capacity restrictions with a major impact within the meaning of Section 3, point (1), of Annex I, applicants may request the infrastructure manager to provide alternative planning for the capacity restriction with a view to identifying and selecting an option that takes into account the impact 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 route affected and alternative routes, where such alternative routes exist including on other networks, and shall be reflected in the capacity model referred to in Article 19 and in the capacity supply plan referred to in Article 20.

6. Infrastructure managers shall take into account and mitigate the impact of railway infrastructure works on cross-border traffic. Infrastructure managers shall coordinate in accordance with Article 55 at least regarding all railway infrastructure works on the railway lines which are part of the European Transport Corridors and any other railway infrastructure work with significant cross-border impact.

Coordination shall address in particular the optimisation of the schedule of railway infrastructure works and the provision of alternative capacity on the route affected and on alternative routes as referred to in paragraph 5, second subparagraph, taking into account the operational and commercial needs of applicants.

7. Reductions in the capacity or performance of railway 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 42, 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 41(6). The information obligations set out in Article 10 shall apply to such capacity restrictions.

8. 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.

9. The Commission is empowered to adopt delegated acts in accordance with Article 75 to amend Section 3 of Annex I where the elements set out therein have proven ineffective or have led to major difficulties of implementation, or where the sector has developed new and widely accepted best practices, with a view to reducing further the impact of capacity restrictions resulting from railway 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 the experience and opinions of ENIM.

Article 12

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 to 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 of the adoption of a decision on the basis of paragraph 1, inform the Commission, the regulatory body and, in the 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. Where 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 56.

4. In the 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.

SECTION 2

STRATEGIC CAPACITY PLANNING

Article 13

Strategic capacity planning

1. Strategic capacity planning shall include all the activities set out in Articles 14 to 27.

2. Strategic capacity planning shall result in the following sequence of planning documents which provide progressively increasing levels of details about available capacity:

   (a) the capacity strategy referred to in Article 18;

   (b) the capacity model referred to in Article 19;

   (c) the capacity supply plan referred to in Article 20.

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

   Documents prepared pursuant to the first subparagraph, points (a), (b) and (c), shall be made available by the infrastructure manager in at least two of the official languages of the institutions of the Union.

3. Infrastructure managers shall adopt the planning documents as a basis for the next phase in the planning process.

4. The Commission is empowered to adopt delegated acts in accordance with Article 75 to amend:

   (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 set out in Section 2 of Annex I,

   where those elements have proven ineffective or have led to major difficulties of implementation, or where the railway 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 Sections 1 and 2 of Annex I.

5. Strategic capacity planning shall not involve the granting of capacity rights to individual applicants in accordance with Article 28.

Article 14

General requirements for strategic capacity planning

1. Infrastructure managers shall take into account in an 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 19 and in the capacity supply plan referred to in Article 20, 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 and with a view to supporting the cross-border consistency of the strategic planning process, ENIM, in consultation with operational stakeholders and the ERP, may draw up a more detailed harmonised list which further differentiates between types of rail transport services. That list shall be included in the European framework for capacity management.

3. In strategic capacity planning, in particular in the capacity model referred to in Article 19 and in the capacity supply plan referred to in Article 20, infrastructure managers shall indicate the pre-planned capacity suitable for the provision of multi-network rail services.

4. Strategic capacity planning shall also take into account:

(a) the observed structure and developments of demand for railway 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 railway infrastructure capacity, as identified through the analysis referred to in Article 17 of this Regulation;

(c) capacity needs announcements by applicants and the input from the consultation with operational stakeholders in accordance with Article 15 of this Regulation;

(d) the expected or planned development of railway infrastructure capacity, in particular as identified in the indicative railway 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 railway 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 sections and nodes part of the TEN-T core and extended core network, as identified in Annex I to Regulation (EU) 2024/1679. Infrastructure managers may decide to include in the strategic capacity planning other sections and nodes of the network which they manage. Member States may provide, in accordance with the strategic guidance referred to in Article 4, 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 the network. For that purpose, the network shall be represented by sections and nodes that allow to take into account relevant characteristics of capacity demand and supply.

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

7. For the purpose of strategic capacity planning, infrastructure managers shall draw up a strategic route map in terms of sections and nodes which sets out the following:

(a) the geographical scope of the capacity strategy referred to in Article 18, of the capacity model referred to in Article 19 and of the capacity supply plan referred to in Article 20;

(b) the alternative lines considered in the event of capacity restrictions referred to in Article 11 and in the context of contingency planning referred to in Article 21.

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.

8. Strategic capacity planning shall cover a period that starts five years 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 railway infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU.

9. Infrastructure managers shall review and update the results of the strategic capacity planning, taking into account, in particular, the following:

(a) the development of railway infrastructure;

(b) changes in market demand for railway infrastructure capacity, including through 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 railway 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.

10. ENIM shall develop and include in the European framework for capacity management guidelines setting out common tools, methodologies and procedural arrangements for strategic capacity planning.

11. 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 15

Consultation with stakeholders on strategic capacity planning

1. Infrastructure managers shall, 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 Article 13(2) of this Regulation, in accordance with the schedule laid down in Section 2 of Annex I thereto.

2. For the purpose of consulting operational stakeholders operating multi-network rail services, infrastructure managers shall coordinate between themselves in accordance with Article 55 and, for European and cross-border matters, Article 57.

Article 16

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 55.

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 railway 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, the ERP, regulatory bodies and the ENRRB, European Coordinators and Member State authorities and, where necessary, other stakeholders.

2. Applicants shall have the right to address their concerns on the planning documents referred to in Article 13(2) to ENIM. ENIM may adopt an opinion or recommendation on these concerns and shall inform the ENRRB.

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 their reasons in the planning documents.

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.

Article 17

Analysis of expected transport market developments

1. Infrastructure managers shall regularly monitor and analyse transport markets in order to inform their overall business strategy, capacity and contingency management and investment decisions.

2. The network coordinator shall regularly carry out a transport market study on network and market developments for cross-border rail services. The network coordinator shall review and update the transport market study as appropriate, and in any case at least every five years. The results of the market study shall be made publicly available.

3. The transport market analysis within the meaning of paragraph 1 of this Article and the market study referred to in paragraph 2 of this Article shall in particular provide input to strategic capacity planning as referred to in Article 4, to the partitioning of railway infrastructure capacity as referred to in Article 27 and to capacity allocation on the basis of the formal conflict resolution mechanism referred to in Article 39.

Infrastructure managers shall take the transport market analysis within the meaning of 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.

Article 18

Capacity strategy

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

The capacity strategy shall serve as a basis for communication, consultation and coordination among operational stakeholders.

2. The capacity strategy shall contain the information listed in Section 1 of Annex I.

3. The infrastructure manager shall prepare, publish and, when necessary, update the capacity strategy in accordance with the schedule and the contents set out in Section 2 of Annex I.

Article 19

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 with operational stakeholders referred to in Article 15 and the consultation and coordination activities referred to in Article 16, including in the form of the capacity needs announcement referred to in Article 14(4), point (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 rail infrastructure, including the upgrade of existing and construction of new railway infrastructure. It shall serve as a basis for communication, consultation and coordination of strategic capacity planning between the operational stakeholders.

2. The capacity model shall contain the information listed in Section 1 of Annex I. Infrastructure managers shall prepare and publish the capacity model for each working timetable period and 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 shall not apply if the capacity supply plan for the same working timetable period has been published.

3. The infrastructure manager shall have the right, within reasonable limits, to propose a capacity model that differs from the input received in the consultation with applicants. The infrastructure manager shall set out the applicable limits in its network statement. ENIM shall develop guidelines on those limits and include them in the European framework for capacity management.

4. Where the infrastructure manager cannot prepare a capacity model within the limits referred to in paragraph 3 of this Article, it shall partition capacity on that element of railway infrastructure in accordance with Article 27.

5. Where relevant, infrastructure managers shall coordinate in accordance with Article 16 to ensure that the outcomes of capacity partitioning are consistent and to ensure seamless multi-network services.

6. 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.

Article 20

Capacity supply plan

1. The infrastructure manager shall establish a capacity supply plan that refines the capacity model on the basis of the consultation with applicants referred to in Article 15, including in the form of capacity needs announcements referred to in Article 14(4), point (c), and of the coordination between infrastructure managers referred to in Article 16.

The capacity supply plan shall provide the basis for capacity allocation. In accordance with the requirements laid down in Sections 1 and 2 of Annex I, it shall provide comprehensive information about:

(a) railway infrastructure capacity available for allocation to applicants;

(b) railway infrastructure capacity not available for allocation.

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

2. Infrastructure managers shall prepare the capacity supply plan in accordance with the results of the strategic capacity planning process referred to in Articles 13 to 19 and in accordance with the schedule set out in Section 2 of Annex I.

3. 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 that plan until the end of the working timetable period, to which it refers. The capacity supply plan shall be provided for each individual day of the working timetable period concerned.

4. Infrastructure managers shall document and, where relevant, justify any substantial divergence between the capacity supply plan and the capacity model concerning the same working timetable period.

5. In the capacity supply plan, infrastructure managers may indicate railway 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 lays down the process through which such capacity can be requested, in accordance with Article 22. The specified characteristics, rules and allocation processes shall be taken into account when allocating pre-planned capacity.

6. Pre-planned capacity shall be presented in the capacity supply plan in the form of capacity planning objects as referred to in Article 22, which specify the volume and characteristics of capacity, and which are linked to allocation rules and processes through which such capacity is made available.

7. The infrastructure manager shall have the right, within reasonable limits, to propose a capacity supply plan that differs from the input received in the consultation with applicants. The infrastructure manager shall set out the applicable limits in its network statement. ENIM shall develop guidelines on those limits and include them in the European framework for capacity management.

8. Where the infrastructure manager is not able to prepare a capacity supply plan within the limits referred to in paragraph 7 of this Article, it shall partition capacity on that element of railway infrastructure in accordance with Article 27.

9. Where relevant, infrastructure managers shall coordinate in accordance with Article 16 to ensure that the outcomes of capacity partitioning are consistent and to ensure seamless multi-network services.

10. The infrastructure manager shall submit the draft capacity supply plan to the regulatory body for scrutiny, whereupon the regulatory body shall analyse 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 this Regulation, with Directive 2012/34/EU, or with the principles of transparency and non-discrimination, in accordance with the deadlines referred to in Section 2 of Annex I to this Regulation.

Where relevant, regulatory bodies shall coordinate with other regulatory bodies.

11. ENIM shall develop guidelines and include them in the European framework for capacity management, 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 with applicants on the capacity supply plan.

Article 21

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 44, with a view to enabling a fast reaction in such situations and to minimising their impact on rail traffic.

Infrastructure managers shall document the results of their 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 traffic to be rerouted in the event of non-availability of elements of railway infrastructure included in the core and extended core TEN-T network, and of any sections and nodes covered by the strategic capacity planning documents;

(b) an indicative planning of the railway infrastructure capacity available on the alternative routes designated in accordance with point (a), providing transparency about railway infrastructure capacity available on such routes, which can be utilised in the event of incidents and, in particular, network disruptions in accordance with Article 48;

(c) laying down the 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 44 and with the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46.

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 railway infrastructure works as referred to in Article 11.

4. The results of contingency planning, in particular the designation of alternative routes in accordance with paragraph 2, point (a), and the indicative capacity planning on alternative routes 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 of this Article, 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 76(2).

Article 22

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 20 via equitable, transparent and non-discriminatory criteria and procedures.

Infrastructure managers shall include those criteria and procedures in the network statement, taking into account the common framework referred to in paragraph 4.

2. 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 4, where such guidance is provided, and taking into account the market needs expressed by applicants.

3. 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 railway infrastructure works and capacity that is 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 parameters and number of paths included for both freight and passenger services.

4. 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. The 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 accepting requests for capacity rights not consistent with the capacity supply plan and the need to adjust the capacity supply plan accordingly.

5. ENIM shall develop specifications for capacity planning objects in human-readable and machine-readable format. ENIM shall include those specifications in the European framework for capacity management. 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 66(3) of this Regulation.

Article 23

Highly utilised and congested railway infrastructure

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

   (a) the utilisation of railway infrastructure capacity has exceeded the thresholds for highly utilised or for congested railway infrastructure during the reference periods set out in Annex II in the previous or the current working timetable period;

   (b) infrastructure managers are required to partition capacity in strategic capacity planning in accordance with Article 19(4) or Article 20(8)

(c) major railway infrastructure works resulting in capacity restrictions scheduled in accordance with Article 11 result in capacity becoming highly utilised or congested.

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

2. ENIM shall develop a common method on the utilisation of railway infrastructure capacity. That method shall be included in the European framework for capacity management.

3. The declaration referred to in paragraph 1 shall specify the working timetable period and the element of railway infrastructure and the specific time periods to which it relates.

4. Conflicting individual capacity requests submitted for allocation during the working timetable period shall not be a ground for declaring an element of railway infrastructure to be highly utilised or congested unless at least one of the conditions set in paragraph 1 is met.

5. Where an element of railway infrastructure has been declared as highly utilised or congested, the infrastructure manager shall carry out a capacity analysis in accordance with Article 24, unless a capacity-enhancement plan, as provided for in Article 25 and addressing all relevant factors, has been carried out in the five years preceding the declaration of that element of railway infrastructure as highly utilised or congested or is already being implemented.

6. For elements of railway infrastructure declared highly utilised or congested, infrastructure managers shall reserve capacity in the capacity supply plan referred to in Article 20, taking into account the outcome of the capacity analysis referred to in Article 24.

7. Member States shall instruct infrastructure managers to indicate elements of railway 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 railway infrastructure is congested shall be set out in the network statement and shall respect any measures and criteria adopted in accordance with Article 27.

9. The Commission is empowered to adopt delegated acts in accordance with Article 75 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 railway infrastructure capacity on highly utilised and congested railway 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 ENRRB in implementing this Article.

Article 24

Capacity analysis in case of highly utilised or congested railway infrastructure

1. The infrastructure manager shall carry out a capacity analysis within six months of the declaration of railway 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 railway 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 railway 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 railway infrastructure in terms of railway infrastructure capacity, capabilities and interoperability, operating procedures, the nature of the different services operating and the effect of all those factors on railway 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 railway 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 element of railway infrastructure concerned is part of a European Transport Corridor, in accordance with Article 57 of this Regulation.

   The infrastructure manager shall make the result of the capacity analysis publicly available on its website. ENIM shall make the links to the result of the capacity analysis 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 railway infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU and to the European Coordinator concerned.

Article 25

Capacity-enhancement plan

1. Within six months of the completion of a capacity analysis in accordance with Article 24, the infrastructure manager shall establish a capacity-enhancement plan for elements of railway infrastructure declared as congested, in accordance with Article 23.

   The capacity-enhancement plan shall identify:

   (a) the reasons for the congestion;

   (b) the likely future development of traffic;

   (c) the constraints on railway infrastructure development;

   (d) the options and costs for capacity enhancement, including the measures referred to in Article 24(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 railway 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 railway infrastructure in accordance with Article 15.

   A Member State may decide that that plan shall be subject to its prior approval.

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

The European Coordinator concerned shall take into account the capacity-enhancement plan in its work plan referred to in Article 53 of Regulation (EU) 2024/1679.

4. Without prejudice to Article 42 of this Regulation, the infrastructure manager shall cease to levy any charges for the relevant railway infrastructure under Article 31(4) of Directive 2012/34/EU in one of the following cases:

(a) the infrastructure manager does not establish a capacity-enhancement plan;

(b) the infrastructure manager does not make progress with the measures 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 26

Specialised railway infrastructure

1. Without prejudice to paragraph 2 of this Article, railway 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 on the basis thereof.

2. Where there are suitable alternative routes and where in accordance with the procedure set out in Article 27 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 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 13(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 railway infrastructure by other types of traffic if capacity is available.

3. Member States shall ensure that the railway infrastructure designated pursuant to paragraph 2 of this Article is indicated in the register of infrastructure referred to in Article 49 of Directive (EU) 2016/797.

Article 27

Capacity partitioning of railway infrastructure declared as being highly utilised or congested

1. The infrastructure manager shall partition capacity on the elements of railway infrastructure declared as being highly utilised or congested applying an equitable, transparent and non-discriminatory methodology.

   The infrastructure manager shall set out the details of the 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 Article 7e, point (d), of Directive 2012/34/EU.

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

2. The methodology referred to in paragraph 1 shall involve the following steps:

   (a) designing 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) evaluating and ranking the scenarios referred to in point (a) of this paragraph, taking into account the operational, socio-economic, and environmental criteria set out in paragraph 3 of this Article;

(c) selecting the highest ranked scenario on the basis of the evaluation referred to in point (b) of this paragraph and amending the capacity model and the capacity supply plan accordingly.

The methodology shall allow the need for multi-network rail services in their entirety to be taken into account.

3. The evaluation referred to in paragraph 2, point (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 railway infrastructure:

(a) operating costs for operators of rail transport services, and the resulting impact on prices for customers of rail transport services;

(b) time-related costs 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.

4. ENIM shall set out an equitable, transparent and non-discriminatory methodology and establish the list of parameters relating to rail transport services and operational, socio-economic and environmental criteria necessary for the assessment referred to in paragraph 3. Where relevant, ENIM 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.

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, apply Member State requirements in accordance with Article 4(2), point (d).

SECTION 3

SCHEDULING AND CAPACITY ALLOCATION

Article 28

Capacity rights

1. Applicants may apply to the infrastructure manager, pursuant to public or private law, in order to request an agreement granting railway infrastructure capacity rights against a charge as provided for in Chapter IV, Section 2 of Directive 2012/34/EU.

   Infrastructure managers shall allocate railway infrastructure capacity rights 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.

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 33 and 35.

4. Unless otherwise specified in this Regulation, the respective rights and obligations of infrastructure managers and applicants in respect of any capacity allocation shall be laid down in contracts or in national law.

5. 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 capacity allocation 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.

6. Where an applicant intends to request railway 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 29

Methods of capacity allocation

1. Infrastructure managers shall grant capacity rights to applicants by means of the allocation processes referred to in Articles 33 to 36.

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

2. Infrastructure managers shall allocate railway infrastructure capacity via digital tools and digital services in accordance with Article 66.

3. 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 unless this was due to non-economic reasons beyond the applicant's control. In such a 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.

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 the obligations pursuant to this paragraph and investigate any complaints received.

4. Where the infrastructure manager cancels, in accordance with paragraph 3, multi-network capacity rights, the regulatory body responsible for that infrastructure manager shall inform the relevant regulatory bodies and the ENRRB.

Article 30

Allocation and coordination of multi-network capacity rights

1. Applicants shall have the right to request multi-network capacity rights by means of the allocation processes referred to in Articles 33 to 36, including entire round trips, and to receive answers to such requests via a one-stop-shop, established in accordance with Article 66(5).

   Infrastructure managers shall coordinate in the capacity allocation for multi-network rail services, in accordance with Article 55, in particular for cross-border rail freight services and cross-border rail passenger services.

2. In particular, the coordination referred to in paragraph 1 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 38 and of the formal conflict resolution mechanism referred to in Article 39;

(d) the coordination of any changes to allocated multi-network capacity rights in accordance with Section 4 with a view to ensuring the integrity of multi-network capacity rights at all times;

(e) without prejudice to Article 1(7), rapid and efficient route compatibility checks for exceptional transport that crosses 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 which shall be responsible to act as the single point of contact for enquiries related to the specific capacity request.

3. An infrastructure manager shall not cancel a multi-network capacity right under Article 29(3) without prior coordination, in accordance with Article 55, with the other infrastructure managers concerned.

If the infrastructure manager cancels, in accordance with Article 29(3), multi-network capacity rights, it shall inform the regulatory body. The regulatory body shall inform the relevant regulatory bodies and the ENRRB.

4. Multi-network capacity right applications shall be treated equally and in a non-discriminatory way compared to single-network capacity right applications.

5. ENIM shall define the detailed procedures and methods to promote uniform application of this Article and the minimum quality requirements referred to in paragraph 2, point (b) and include them in the European framework for capacity management.

Article 31

Cooperation in the allocation of railway infrastructure capacity and capacity in service facilities

1. Infrastructure managers and operators of service facilities that are offering services which are necessary for operating a rail transport service and whose service facilities are part of the trans-European transport network as specified in the Annex I to Regulation (EU) 2024/1679, including those located in the urban nodes defined in Article 3(6) of that Regulation, shall cooperate with a view to ensuring that the allocation of railway infrastructure capacity and capacity in service facilities 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 a single place and in a single operation, railway infrastructure capacity rights and capacity in the service facilities referred to in paragraph 1 of this Article, using the one-stop shop established under Article 66(5).

4. Infrastructure managers may enter into an agreement with operators of other service facilities for the joint provision of capacity.

5. For the purposes of paragraph 3, infrastructure managers and operators of service facilities shall coordinate the capacity and shall provide capacity rights, including capacity in the service facility that meets the requirements of the applicant, or shall make an effort to provide a viable alternative to the capacity requested.

6. The operators of service facilities referred to in paragraph 1 of this Article shall make available information about the available capacity to the infrastructure manager in a digital format in accordance with Article 66(5). Real-time information shall be provided whenever supported by the digital tools referred to in Article 66(5).

7. This Article shall not apply to operators of service facilities benefiting from an exemption under Article 2 of Commission Implementing Regulation 2017/2177[18].

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[18] 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, ELI: http://data.europa.eu/eli/reg_impl/2017/2177/oj).

Article 32

Working timetable

1. Infrastructure managers shall publish a new working timetable before the start of each working timetable period.

   Infrastructure managers shall initiate the preparation of the working timetable when allocating capacity through the annual allocation process referred to in Article 34, taking into account capacity rights allocated through framework agreements in accordance with Article 33 and through the rolling planning process referred to in Article 35.

2. Infrastructure managers shall 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 35, capacity allocated through the ad hoc process referred to in Article 36, changes to capacity rights in accordance with Article 41 and rescheduling in the context of disruption management and crisis management in accordance with Article 43.

Article 33

Capacity allocation through framework agreements

1. Applicants shall have the right to request railway infrastructure capacity over a period of time exceeding one working timetable period through framework agreements.

Framework agreements shall specify the capacity rights granted in the form of a capacity specification as referred to in Article 28(1), point (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 among themselves.

2. 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 of the Treaty on the Functioning of the European Union(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 paragraphs 5 and 6 of this Article. 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 6 of this Article.

3. Framework agreements may be concluded between several infrastructure managers and an applicant in cases where they cover more than one network.

4. An applicant who is a party to a framework agreement shall request the infrastructure manager to convert the capacity specifications included in the framework agreement into a corresponding train path in accordance with that agreement. That conversion shall be carried out in accordance with Article 28(2).

5. Infrastructure managers shall ensure that framework agreements are consistent with the following:

   (a) the planning documents related to strategic capacity planning as referred to in Article 13(2);

   (b) the strategic guidance, including its possible binding elements, where Member States have provided such guidance in accordance with Article 4.

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

6. Framework agreements shall not preclude the use of the relevant infrastructure by other applicants or services. For that purpose, infrastructure managers shall set the maximum shares of total capacity that can be allocated through framework agreements and include those shares in the network statement.

7. Framework agreements shall allow for the amendment of their terms to enable better use to be made of the railway infrastructure, without prejudice to Articles 41 and 42. Other changes to capacity rights allocated through framework agreements shall be subject to a penalty in accordance with Article 42.

8. 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 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.

9. For services using specialised railway infrastructure referred to in Article 26, which requires substantial and long-term investment, duly justified by the applicant, framework agreements may be concluded for a period up to 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.

10. Infrastructure managers shall include capacity allocated through framework agreements in the capacity model referred to in Article 19 and in the capacity supply plan referred to in Article 20.

11. While respecting commercial confidentiality, the general nature of each framework agreement shall be made available to any interested party.

12. 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 procedure and criteria for concluding framework agreements, the form and the content of such agreements to ensure the uniform application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

Article 34

Capacity allocation through the annual allocation process

1. The infrastructure manager shall allocate capacity through simultaneous capacity allocation, with a view to meeting, to the extent possible, all requests for railway infrastructure capacity referred to in Article 32(1), subject to paragraphs 2, 3 and 4 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.

2. In accordance with Articles 20 and 22, the infrastructure manager may accept or refuse requests for capacity rights that are not consistent with the capacity supply plan.

   Where a request is not consistent with the capacity supply plan, the infrastructure manager shall have the right, within reasonable limits, to propose railway 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 criteria and procedures referred to in Article 22(1).

When accepting requests that are 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 20(6) and, in the event of conflict with other requests, give priority to requests that are consistent with the capacity supply plan, in particular the pre-planned capacity.

When refusing requests that are not consistent with the capacity supply plan, the infrastructure manager shall, without delay, inform the applicant concerned of its intention to refuse a request. The applicant concerned shall have the right to lodge a complaint with the regulatory body.

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

3. In the event of a conflict between two or more capacity requests, the infrastructure manager shall first attempt to resolve the conflict through the consensual conflict resolution mechanism referred to in Article 38. If that consensual conflict resolution mechanism has not resolved the capacity conflict, the infrastructure manager shall apply the formal conflict resolution mechanism referred to in Article 39.

4. Capacity rights granted through the annual allocation process may comprise:

(a) capacity specifications;

(b) train paths.

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

5. The infrastructure manager shall comply with the schedule for the allocation process set out in Section 4 of Annex I.

6. The infrastructure manager shall consider requests submitted after the deadline set out in Section 4 of Annex I and allocate the capacity on the basis of the first come, first served principle.

7. For requests submitted after the 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.

8. The infrastructure manager shall consult interested parties on the draft working timetable. Interested parties shall include all those who have requested railway 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.

9. The infrastructure manager shall take appropriate measures to deal with any concerns that are expressed.

Article 35

Capacity allocation through the rolling planning process

1. Infrastructure managers shall allocate railway infrastructure capacity through the rolling planning process at least to rail freight services in accordance with the deadlines set out in Section 6 of Annex I. Infrastructure managers shall reserve capacity for that purpose in the capacity supply plan referred to in Article 20.

   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 the rolling planning process in cases where such capacity is not reserved in the planning documents. The rolling planning process shall not preclude the use of the relevant railway 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 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.

3. 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 to be changes to capacity rights subject to a penalty for the purposes of Article 42. Other changes to capacity rights allocated through rolling planning process shall be subject to a penalty in accordance with Article 42.

4. Without prejudice to Article 20, infrastructure managers shall allocate capacity reserved for the rolling planning process on the basis of the first come, first served principle.

5. In accordance with the rules and procedures set out in Article 22, infrastructure managers shall try their utmost to offer alternative capacity for rolling planning requests if requests are inconsistent with the capacity supply plan referred to in Article 20. If it is not possible to offer an alternative, the infrastructure manager may refuse to allocate capacity to those inconsistent requests. The applicant shall have the right to lodge a complaint with the regulatory body.

6. The infrastructure manager, following a notification to the regulatory body, shall refuse rolling planning requests, if those requests meet the characteristics of capacity that is normally allocated through framework agreements in accordance with Article 33. The regulatory body shall inform the ENRRB of such refusals and shall ensure a consistent application of this paragraph.

7. Based on the experience of regulatory bodies, competent authorities, railway undertakings, infrastructure managers and 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 76(2).

Article 36

Capacity allocation through the ad hoc process

1. The infrastructure manager shall respond without undue delay, and in any event within the deadlines set out in Section 7 of Annex I, to ad hoc requests for railway 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 10 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 railway infrastructure capacity in response to ad hoc requests shall be based on the first come, first served principle.

Article 37

Scheduling of capacity restrictions resulting from railway infrastructure works

1. Infrastructure managers shall adhere to the schedule and requirements set out in Sections 3 and 8 of Annex I when scheduling railway infrastructure works in accordance with this Article.

2. When scheduling railway 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 railway infrastructure works requires a change to an allocated capacity right within the meaning of Article 41, 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 initiate a coordination with the applicants concerned with a view to agreeing on alternative capacity rights.

4. Infrastructure managers shall include capacity restrictions resulting from railway infrastructure works as soon as they are scheduled in the capacity model or in the capacity supply plan, regardless of the moment when they are scheduled.

5. The infrastructure manager may derogate from the deadlines laid down in Section 3, Table 1 of Annex I, and the requirement to include capacity restrictions with high or major impact in the capacity model referred to in Article 19 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 the progress towards the re-establishment of normal operations.

Capacity restrictions that imply changes to capacity rights after allocation shall comply with the requirements laid down in Article 41 and in Section 8 of Annex I.

Article 38

Consensual conflict resolution mechanism and coordination of requests

1. Where in the context of simultaneous capacity allocation there are conflicting requests for railway infrastructure capacity, the infrastructure manager shall attempt to ensure, through coordination of those requests, the best possible matching of all requirements.

2. Where a situation requiring coordination arises, the infrastructure manager shall attempt to accommodate all railway infrastructure capacity requests through coordination and shall have the right, within reasonable limits, to propose railway infrastructure capacity that differs from that which was requested. The infrastructure manager shall set out the applicable limits in its network statement. ENIM shall develop guidelines on those limits and include them in the European framework for capacity management.

3. The infrastructure manager shall attempt, through consultation with the applicants concerned, 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) capacity rights requested by all other applicants on the same routes;

(b) capacity rights allocated on a preliminary basis to all other applicants on the same routes;

(c) alternative 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 3(2) 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 railway infrastructure capacity requests.

4. The infrastructure manager shall set out in its network statement the principles governing the coordination of capacity requests for rail services.

5. Where capacity requests cannot be satisfied without coordination, the infrastructure manager shall attempt to accommodate all requests through coordination.

6. In case of multi-network capacity requests, the consensual conflict resolution mechanism set out in paragraphs 1, 2 and 3 of this Article shall be performed in accordance with Article 55 and shall involve the network coordinator.

7. ENIM shall develop guidelines for the consensual conflict resolution mechanism for multi-network capacity requests and include them in the European framework for capacity management.

Article 39

Formal conflict resolution mechanism

1. Where the consensual conflict resolution mechanism referred to in Article 38 has not resolved the conflict, infrastructure managers shall allocate railway infrastructure capacity applying an equitable, transparent and non-discriminatory methodology.

   The infrastructure manager shall set out the details of the 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 Article 7e, point (c), of Directive 2012/34/EU.

2. The methodology referred to in paragraph 1 shall involve the following steps:

(a) designing 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) evaluating and ranking the scenarios referred to in point (a) of this paragraph, taking into account the operational, socio-economic, and environmental criteria set out in paragraph 3;

(c) selecting the highest ranked scenario on the basis of the evaluation referred to in point (b) of this paragraph and amending the capacity model and the capacity supply plan accordingly.

3. The evaluation referred to in paragraph 2, point (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 railway infrastructure:

(a) operating costs for operators of rail transport services, and the resulting impact on prices for customers of rail transport services;

(b) time-related costs 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, in particular 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.

4. 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 3. 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.

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 Article 4(2), point (d).

5. In the context of the formal conflict resolution mechanism, requests for multi-network capacity rights shall be taken into consideration in their entirety. If, in accordance with paragraph 4, different national parameters apply, those parameters shall be used for the respective sections.

6. In case of conflicting capacity requests involving rail services with similar characteristics and socio-economic profile, the infrastructure manager shall assign railway infrastructure 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.

Article 40

Schedule for capacity allocation processes

1. For the purposes of implementing Articles 33 to 36, the infrastructure manager and applicants shall comply with the schedule for capacity allocation processes set out in Sections 4 to 7 of Annex I.

2. Infrastructure managers may decide time periods and deadlines for the schedule for 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 to Directive 2012/34/EU if:

(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 is empowered to adopt delegated acts in accordance with Article 75 to amend the deadlines and durations set out in Sections 4 to 7 of Annex I, and to adjust, within the limits of the framework laid down in Articles 33 to 36, 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, 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 41

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.

   In the event of changes to allocated capacity rights, Article 42 shall apply and the infrastructure managers shall, without delay, update the working timetable referred to in Article 32.

2. After the allocation of capacity rights, infrastructure managers shall limit changes to capacity rights to the greatest extent possible, in accordance with the principles set out in Article 2(4). Likewise, applicants shall limit to the greatest extent possible their requests for changes to such capacity rights.

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.

4. A cancellation of capacity rights shall also be considered as a specific type of change.

5. In the case of changes to capacity rights, infrastructure managers may apply shorter deadlines for the allocation of such 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.

6. 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 in operational and commercial terms. For that purpose, infrastructure managers shall categorise changes based on their impact and identify the category of changes having a significant impact, taking into account the procedures adopted by ENIM on the basis of paragraph 10.

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

A cancellation due to *force majeure* on one network shall be considered to be 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 shall be responsible for the process 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 shall be either the allocation of an alternative multi-network capacity right or the information that no alternative capacity right is available.

8. 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.

9. 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 railway infrastructure capacity. Where relevant, that information shall make reference to the capacity supply plan referred to in Article 20 and the contingency planning referred to in Article 21.

10. ENIM shall prepare and adopt uniform procedures to manage changes to capacity rights after allocation and include them in the European framework for capacity management.

Those procedures shall establish criteria to differentiate between changes depending on their impact in commercial and operational terms, including criteria to categorise changes as having a significant impact.

To categorise a change as having a significant impact ENIM shall take into account, among other factors, 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.

11. By … [18 months from the date of entry into force of this Regulation], the Commission shall adopt delegated acts in accordance with Article 75 to amend Section 8 of Annex I with a view to ensuring 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 42

Penalty for changes to capacity rights

1. Where the infrastructure manager or an applicant does not fulfil its commitments with respect to an allocated capacity right and where this results in a change that is categorised as significant in accordance with Article 41(6), it shall pay a penalty to the other party. The penalty shall be effective, proportionate, dissuasive and non-discriminatory.

2. The penalty referred to in paragraph 1 shall not be due in the following circumstances:

(a) *force majeure*;

(b) where an infrastructure manager withdraws capacity rights in accordance with measures taken by Member States in accordance with Article 12;

(c) where a capacity right is cancelled in accordance with Article 29(3);

(d) when amending framework agreements in accordance with Article 33(7);

(e) the use of derogations in accordance with Article 37(5).

3. The level of the penalty shall be set between a minimum and a maximum level, as determined in Annex IV. The infrastructure managers shall set out in the network statement the levels of penalty to be paid by the infrastructure manager and the applicant subject to approval by the regulatory body.

4. 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.

5. The penalty may be modulated by 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 and alternative capacity exists, the quality of the alternative capacity; 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.

6. Based on the criteria set out in paragraph 5, ENIM shall develop guidelines for the application of the modulation and include them in the European framework for capacity management.

The infrastructure manager shall determine the modulation levels based on those guidelines.

7. 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 by the applicant, subject to the approval by the regulatory body.

8. In the case of a multi-network capacity right, the total penalty shall be calculated by adding the amount of the penalties, including the modulation, in each of the networks, by taking into account that:

(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.

9. An infrastructure manager or an applicant shall have the right to raise a dispute with the regulatory body responsible concerning the change of a capacity right or related to the payment of a penalty. The regulatory body shall take a decision without delay, at the latest within one month of collecting all the necessary information to assess the cause of the change.

10. 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 pursuant to Article 30 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 of ensuring that such decisions are consistent and based on commonly recognised principles.

11. The Commission shall adopt delegated acts in accordance with Article 75 to amend Annex IV with a view to 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.

Article 43

Rescheduling in the context of disruption management and crisis management

1. In the event of a network disruption as referred to in Article 48 or of a crisis situation as referred to in Article 49, 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 railway infrastructure capacity, taking into account the guidelines referred to in paragraph 2, on the basis of the contingency plans prepared in accordance with Article 21 and in close coordination with operational stakeholders and, where relevant, other stakeholders concerned.

2. ENIM shall develop and adopt guidelines for managing and allocating railway infrastructure capacity in the event of a network disruption as referred to in Article 48 and include them in the European framework for the coordination of cross-border traffic management, disruption management and crisis management. In particular, ENIM shall develop guidelines on the application of the disruption management and the first come, first served principle.

   When disruption management applies, ENIM shall develop guidelines on the procedures to be applied, involving as appropriate the application of the consensual conflict resolution mechanism referred to in Article 38 and of the formal conflict resolution mechanism referred to in Article 39. ENIM shall include those guidelines in the European framework for the coordination of cross-border traffic management, disruption management and crisis management as referred to in Article 46.

3. 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 as referred to in Article 48. Such agreements shall be listed in the contingency plan referred to in Article 21.

4. Where a network disruption as referred to in Article 48 affects traffic on more than one network, the infrastructure managers concerned shall coordinate the allocation of alternative capacity in accordance with Article 55 and take into account the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46.

Chapter III
Traffic, disruption and crisis management

Article 44

Traffic management, disruption management and crisis management

1. Infrastructure managers shall perform traffic management in accordance with this Regulation, 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 48;

(c) traffic management during crisis situations as referred to in Article 49.

2. 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 crisis situations;

(c) provide relevant, accurate and up-to-date information to operational stakeholders and to other parties concerned, in particular authorities in charge of managing crisis situations outside the rail sector; that information shall be provided by the appropriate means, including those referred to in Article 66.

Article 45

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 44(1), points (a), (b) and (c), of this Regulation.

2. The rules and procedures referred to in paragraph 1 shall aim to minimise 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 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 minimisation 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, the infrastructure manager shall implement the contingency plan developed in accordance with Article 21. If a disturbance 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 management, disruption management and crisis management as referred to in Article 46.

4. When setting out the rules and procedures referred to in paragraph 1, infrastructure managers shall take account of the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46. 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 cross-border traffic management, disruption management and crisis management.

5. In case of *force majeure*, and, where absolutely necessary, on account of an incident making the railway 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.

6. In the event of a capacity cancellation, infrastructure managers shall inform railway undertakings of their time management, of progress of repairs and of possible alternatives to their allocated capacity.

7. Member States may require railway undertakings to be involved in ensuring the enforcement and monitoring of their own compliance with the safety standards and rules.

Article 46

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

1. By … [22 months from the date of entry into force of this Regulation], ENIM shall develop and adopt a European framework for the coordination of cross border traffic management, disruption management and crisis management in accordance with the principles referred to in Article 44, 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 Europe's Rail Joint Undertaking established by 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.

2. When preparing the network statement referred to in Article 27 of Directive 2012/34/EU and Article 6(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.

3. ENIM shall publish a draft of the European framework for the coordination of cross-border traffic management, disruption management and crisis management for consulting the ERP and operational stakeholders. The ERP and operational stakeholders may submit their replies to the consultation within three months of the publication of that draft.

4. ENIM shall submit the final draft of the European framework for the coordination of cross-border traffic management, disruption management and crisis management to the ENRRB by … [16 months from the date of entry into force of this Regulation]. The ENRRB shall submit a recommendation to ENIM on the European framework for the coordination of cross-border traffic management, disruption management and crisis management, within three months of receiving the draft from 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.

5. The European framework for the coordination of cross-border traffic management, disruption management and crisis management shall comprise of at least the elements listed in Annex VI 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 the ERP and operational stakeholders, and shall submit a draft to the ENRRB for recommendation, in accordance with paragraphs 3 and 4.

6. When exercising its powers in relation to the network statement in accordance with Article 56(1) and (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 the ENRRB, in accordance with paragraph 2 of this Article and without prejudice to the principle of independence of regulatory bodies.

7. The Commission is empowered, in accordance with Article 74, 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 5 of this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

Article 47

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

Infrastructure managers shall coordinate traffic management in accordance with Article 55 and on the basis of the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46.

The 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 Union level relevant crisis management governance structures as appropriate, including in accordance with Article 66.

Article 48

Network disruption

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 7.

If the estimated likely duration and impact of the incident meet the criteria for the declaration of network disruptions as set out in Annex VII, the infrastructure managers concerned shall declare a network disruption and implement the measures laid down in Article 45.

2. Where the network disruption has, or is likely to have, impacts on more than one network, the manager of the railway infrastructure on which the network disruption took place shall declare a multi-network disruption and coordinate actions in accordance with Article 47, while taking account of the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46.

3. 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.

4. The infrastructure manager shall inform, as soon as possible, interested parties about the unavailability of railway infrastructure capacity.

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

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, reach conclusions on the effectiveness of the management of such incidents, consult operational stakeholders, taking into account the guidelines developed by ENIM in accordance with Article 57(2), and report to ENIM and the Advisory Performance Panel.

6. 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 46.

7. 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 46. Infrastructure managers shall take account of that method, minimum content and template.

Article 49

Crisis situations

1. In crisis situations or in cases of imminent risk of a crisis situation occurring related to public safety, health epidemics, natural disasters or the 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 railway infrastructure capacity laid down in Chapter IV, Section 3 of Directive 2012/34/EU:

(a) the cancellation of capacity rights without penalty in accordance with Article 42;

(b) alternative principles, rules and procedures for capacity management;

(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 21. It shall coordinate such emergency measures with other Member States in accordance with Article 56.

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. Where Regulation (EU) 2024/2747 of the European Parliament and of the Council[19] applies, the Member State concerned shall also notify the central liaison office designated by that Member State pursuant to Article 8 of that Regulation of the measures adopted pursuant to this Article.

[19] Regulation (EU) 2024/2747 of the European Parliament and of the Council of 9 October 2024 establishing a framework of measures related to an internal market emergency and to the resilience of the internal market and amending Council Regulation (EC) No 2679/98 (OJ L, 2024/2747, 8.11.2024, ELI: http://data.europa.eu/eli/reg/2024/2747/oj).

3. Focal points appointed in accordance with Article 64 of this Regulation shall provide information to the Commission, ENIM, other infrastructure managers, the competent authority referred to in Article 9(1) of Directive (EU) 2022/2557, 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 Article 55, while taking into account the guidelines developed by ENIM in accordance with Article 57(2). When performing coordination through dedicated coordination structures in accordance with Article 55(2), point (a), the Commission and the Member States concerned shall be involved.

5. At the request of the Commission, in the event that emergency measures have a significant impact on cross-border traffic, 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 on request from 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 be subject to a penalty for changes to capacity rights, in accordance with the principles referred to in Article 42.

Article 50

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 set out in Annex IX concerning this rail transport service.

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

2. The infrastructure manager shall make the information accessible in accordance with Article 66.

3. The Commission is empowered to adopt delegated acts in accordance with Article 75 of this Regulation to amend Annex IX to this Regulation 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 51
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 railway infrastructure services provided by infrastructure managers, taking into account the general principles set out in Article 2 of this Regulation. Where relevant, ENIM shall cooperate with the European Coordinators, the Advisory Performance Panel and ENRRB for that purpose.

2. Infrastructure managers shall set out in the business plan referred to in Article 8(3) of Directive 2012/34/EU their own performance targets in accordance with the criteria and procedures referred to Article 52(5), point (c), of this Regulation, taking into account any targets set out in the contractual agreements referred to in Article 30(2) of that Directive. Those targets shall include the target values set out in Article 19(1), points (a) and (b), of Regulation (EU) 2024/1679.

3. Infrastructure managers shall put in place and perform procedures to monitor and report on progress towards the achievement of the performance targets, to identify the causes of performance deficiencies with operational stakeholders and to design and implement remedial measures to improve performance. Those procedures shall take into account the European framework for performance review referred to in Article 52 of this Regulation.

4. Where related to their own performance targets, infrastructure managers shall also monitor the performance of rail transport services.

Article 52

European framework for performance review

1. By … [26 months from the date of entry into force of this Regulation], ENIM shall develop and adopt a 'European framework for performance review' laying down common tools, methodologies and procedural arrangements, taking into account the principles set out in Article 2(4) and Article 44(2) of this Regulation and the operational 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 when carrying out the performance review.

2. When preparing the network statement referred to in Article 27 of Directive 2012/34/EU and Article 6(2) of this Regulation, infrastructure managers shall take the utmost account of the European framework for performance review. They shall explain, in the network statement, the reason for any deviation from the common tools, methodologies and procedural arrangements established in that framework.

3. ENIM shall publish a draft of the European framework for performance review for consultation with the ERP and operational stakeholders. The ERP and operational stakeholders may submit their replies to the consultation within three months of the publication of the draft European framework for performance review.

4. ENIM shall submit a final draft of the European framework for performance review to the ENRRB by … [20 months from the date of entry into force of this Regulation]. Within three months of receipt of the final draft, the ENRRB shall submit a recommendation to ENIM on the European framework for performance review. ENIM shall take the utmost account of that recommendation when adopting the European framework for performance review.

5. The European framework for performance review shall cover at least the performance areas set out in Annex VIII. In particular, it shall include:

(a) a list of priority performance issues to be addressed in the performance areas set out in that Annex;

(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 set performance targets at the level of infrastructure managers;

(d) procedures to monitor and review the elements in points (a), (b) and (c), as well as the implementation of corrective measures and the achievement of the performance targets.

6. The European framework for performance review 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 performance review is updated, ENIM shall consult the ERP and operational stakeholders, and shall submit a draft to the ENRRB for recommendation, in accordance with paragraphs 3 and 4.

7. When exercising its powers in relation to the network statement in accordance with Article 56(1) and (2) of Directive 2012/34/EU, the regulatory body shall take into account the recommendation on the European framework for performance review adopted by the ENRRB, in accordance with paragraph 4 and without prejudice to the principle of independence of regulatory bodies.

8. The Commission is empowered, in accordance with Article 74, to adopt implementing acts setting out the European framework for performance review. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

Article 53

European performance review report

1. Without prejudice to Article 15 of Directive 2012/34/EU and to the implementing acts adopted on the basis thereof, ENIM shall prepare and publish by … [38 months from the date of 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 52 of this Regulation. ENIM shall prepare and publish an update of the report every year.

2. The Advisory Performance Panel shall prepare a self-standing section of the European performance review report which sets out an assessment of the performance of railway infrastructure services and rail transport services, recommendations on performance issues to be addressed with 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 and shall include the information referred to in Article 54(3), point (g) of Regulation (EU) 2024/1679. The information presented shall be sufficiently detailed in terms of geographical scope and 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 55 and on the consultation mechanism referred to in Article 57.

Article 54

Advisory Performance Panel

1. In accordance with the procedure referred to in Article 76(2), the Commission may set up or designate an impartial and competent body to act as an Advisory Performance Panel. 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 appointed 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 shall be appointed for a term of four years and their mandate may be renewed twice.

2. The Advisory Performance Panel 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 52, including on performance areas, performance issues to be addressed under each of the performance areas, and 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 review report and, preparing the self-standing section referred to in Article 53(2);

(d) providing opinions and recommendations relating to the performance of railway infrastructure services in relation to the indicative railway infrastructure development strategy referred to in Article 8(1) of Directive 2012/34/EU, the business plan referred to in Article 8(3) of that Directive, the contractual agreements referred to in Article 30(2) of that Directive and the performance scheme referred to in Article 35 of that Directive;

(e) providing advice to the European Coordinators on matters related to the performance of railway infrastructure services and rail transport services.

3. ENIM, the network coordinator, infrastructure managers, regulatory bodies, the ENRRB and, where relevant, other stakeholders shall cooperate with the Advisory Performance Panel, in particular by providing information related to performance on their own initiative or upon the Advisory Performance Panel's request and make the utmost effort to take into account its recommendations in their work on rail performance management.

4. The Advisory Performance Panel shall respect the confidentiality of business secrets when handling information provided by relevant stakeholders or the Commission.

Chapter V
European network for coordination

Article 55

Coordination among infrastructure managers

1. Infrastructure managers shall coordinate among themselves and with other relevant stakeholders in relation to the responsibilities and tasks entrusted to them under this Regulation.

2. Infrastructure managers shall in particular:

   (a) establish organisational structures, procedures and tools, as appropriate, including the digital tools referred to in Article 66;

   (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 64;

(d) involve ENIM or the network coordinator, as appropriate, on matters having Union relevance;

(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 57;

(f) refer to ENIM cases where agreed outcomes cannot be reached;

(g) review the performance of coordination activities in accordance with Chapter IV.

3. The coordination 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.

4. Where ENIM or the network coordinator are involved in the coordination, they shall ensure that cross-border aspects are properly taken into account.

5. The coordination shall cover all sections and nodes which are part of the European Transport Corridors.

Infrastructure managers may extend coordination to additional lines subject to an agreement between all infrastructure managers concerned.

6. The coordination relating to the allocation of multi-network capacity rights in accordance with Article 30 shall cover the entire networks of the infrastructure managers that are members of ENIM.

Article 56

Coordination among Member States

1. For the purpose of promoting international passenger and rail freight traffic, Member States shall coordinate with each other to ensure consistency between their respective strategic guidance and national requirements adopted in accordance with Article 4.They shall in particular define and publish procedures and schedules 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 Commission for matters where coordination is required at Union level or where otherwise relevant.

Article 57

Consultation mechanism for European and cross-border matters

1. Infrastructure managers shall ensure an appropriate and regular consultation with interested parties on European and cross-border matters. For that purpose, they shall take into account the guidelines developed by ENIM referred to in paragraph 2.

2. ENIM shall develop, adopt and implement guidelines for the purpose of ensuring appropriate and regular consultation with interested parties regarding European and cross-border matters and include them in the European framework for capacity management, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46 and the European framework for performance review referred to in Article 52. 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 focal points designated by infrastructure managers under Article 64.

3. 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, or the European framework for performance review, which is likely to have a substantial impact on applicants, other operational stakeholders or interested parties, it shall publish a draft for consultation with the parties concerned, including the ERP. The parties concerned shall have six weeks to provide feedback on the draft opinion or recommendation. Member State authorities shall be involved where necessary.

4. ENIM shall take account of the feedback provided by the parties concerned when developing the guidelines referred to in paragraph 2 and when adopting the final opinion or recommendation referred to in paragraph 3. Where ENIM decides not to take into account significant elements of the feedback provided, it shall provide the reasons therefor.

Article 58

Organisation of ENIM

1. For the purposes of this Regulation, the European Network of Infrastructure Managers (ENIM) referred to in Directive 2012/34/EU shall be organised in in line with this Article.

2. The members of ENIM shall provide ENIM with the necessary resources to perform its tasks.

3. All infrastructure managers that are responsible for lines that form part of the core and extended core TEN-T network shall be members of ENIM. Other infrastructure managers included in strategic capacity management pursuant to Article 14 may be members of ENIM. Every member shall appoint a representative and an alternate.

4. Infrastructure managers that are not responsible for the lines referred to in paragraph 3 and are thus not members of ENIM, may participate in the deliberations of ENIM as observers without voting rights. They may submit statements for consideration by ENIM.

5. 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.

6. ENIM may invite, on an ad-hoc basis, infrastructure managers of third countries not covered under paragraph 5 who are managing railway lines of the TEN-T core and extended core, as observers.

7. ENIM shall adopt and publish its rules of procedure, subject to the approval of the Commission. ENIM shall organise its activities in accordance with those rules of procedure.

8. ENIM shall take its decisions by a two-thirds majority. Where specified in the rules of procedures, ENIM may take certain decisions by a simple majority. All members from one State shall together have one vote. In the absence of a member representative, the alternate shall be entitled to exercise the right to vote.

9. ENIM shall meet at regular intervals. It shall elect a Chair from among its members.

10. The Commission shall be a non-voting member of ENIM. It shall support the work of ENIM and facilitate coordination.

11. ENIM shall set out its work programme. The work programme shall cover a period of between two to five years. ENIM shall consult the ERP, applicants and other operational stakeholders, in accordance with the guidelines referred to in Article 57, on the draft work programme, as well as consult the Commission, the European Union Agency for Railways (ERA), the Europe's Rail Joint Undertaking and, as appropriate, other stakeholders. The parties concerned shall have four weeks to provide feedback on the draft work programme.

Article 59

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 under this Regulation. It shall, in particular:

(a) adopt the European framework for capacity management;

(b) adopt the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46 of this Regulation;

(c) adopt the European framework for performance review, referred to in Article 52 of this Regulation;

(d) adopt a common structure for the network statement and a common schedule for consultation, referred to in Article 65 of this Regulation;

(e) adopt opinions and recommendations to infrastructure managers in accordance with the provisions of this Regulation and on its own initiative;

(f) adopt opinions and recommendations to infrastructure managers in the cases referred to in Article 55(2), point (f), of this Regulation;

(g) organise, with the contribution of the network coordinator, the coordination between infrastructure managers in accordance with Articles 55 and Article 64 of this Regulation.

2. ENIM shall have no policy-making or regulatory powers.

3. ENIM may establish working groups.

Article 60

Transparency of ENIM

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 55.

2. ENIM shall invite 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 discussing issues related to the development of railway infrastructure and to ensuring cooperation with the European Coordinators, as set out in Regulation (EU) 2024/1679.

Article 61

Network coordinator

1. By … [six months from the date of entry into force of this Regulation] ENIM shall appoint an impartial and competent entity to fulfil the functions referred to in Article 62. Such an entity shall be designated as the network coordinator.

   The members of ENIM shall provide the network coordinator with the necessary resources to perform its tasks.

The rules of procedure of ENIM, as referred to in Article 58(7), shall lay down:

(a) the terms and conditions for the appointment of the network coordinator and the withdrawal of the appointment;

(b) the procedure for assigning to it any additional duties and tasks; and

(c) the arrangements for monitoring and assessing its work.

2. The network coordinator shall execute its tasks in an impartial, transparent and cost-effective manner. For that purpose, it shall submit to ENIM its annual work programme with respect to the tasks set out under this Regulation and an annual report on the implementation of the work programme. Prior to their adoption by the network coordinator, ENIM shall approve the annual work programme and the annual report.

Article 62

Tasks of the network coordinator

The network coordinator shall carry out the following tasks in support of ENIM:

(a) act as the secretariat and prepare ENIM's meetings, documents, decisions and opinions;

(b) contribute to the preparation of the European framework for capacity management, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46 and the European framework for performance review referred to in Article 52;

(c) contribute to the operational coordination among infrastructure managers in accordance with Article 55;

(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;

(e) contribute to the coordination among infrastructure managers concerning strategic capacity planning according to Article 16 by elaborating specific timetable designs which facilitate competitive multi-network long-distance train paths;

(f) 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, or requests for information or contact points related to rail incidents and temporary capacity restrictions;

(g) act as a first point of contact for stakeholders interested in using rail services, providing contacts to relevant actors such as infrastructure managers and other operational stakeholders;

(h) 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 49;

(i) offer services, in particular in terms of digital and IT tools, when requested, to improve rail services and boost trans-European rail traffic.

Article 63

Organisation of the ERP

1. By … [six months from the date of entry into force of this Regulation], operational stakeholders, other than infrastructure managers, may submit a proposal to the Commission to establish the ERP to facilitate their exchanges and consultation with ENIM. The purpose of the ERP is to ensure effective consultation of the railway sector vis-à-vis ENIM.

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

2. The ERP shall allow for a balanced representation of the interests of all operational stakeholders other than infrastructure managers.

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

3. Within two months of receiving a proposal under paragraph 1, the Commission, after hearing the opinion of the ENRRB, shall assess whether the proposal complies with the requirements in paragraph 2, including whether it requires changes, as appropriate.

4. Following the assessment under paragraph 3 and the adoption of any required changes in the proposal, the Commission shall communicate its agreement to the establishment of the ERP.

The ERP shall thereafter make its rules of procedure publicly available on its website.

5. The establishment of the ERP shall be without prejudice to the right of operational stakeholders, other than infrastructure managers, to respond to requests for consultations by ENIM and infrastructure managers on an individual basis.

6. ERP may issue own-initiative opinions.

7. ERP shall address to the Commission an annual report of its activities. The report shall be published.

Article 64

Focal points for coordination of infrastructure managers

1. In order to ensure coordination among infrastructure managers in accordance with Article 55, 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 60(1).

Article 65

Common structure, contents and schedule for network statements

1. By … [12 months from the date of entry into force of this Regulation], ENIM shall 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 V to this Regulation, and a common schedule for the consultation with interested parties on the draft network statement. Infrastructure managers shall take the utmost account of this structure and schedule when preparing the network statement.

2. ENIM shall submit a draft of the common structure for the network statement referred to in paragraph 1 by … [six months from the date of entry into force of this Regulation]. Within three months of receipt of the draft prepared by ENIM, the ENRRB shall submit a recommendation to ENIM on that common structure. ENIM shall take account of that recommendation.

3. When preparing the network statement referred to in Article 27 of Directive 2012/34/EU, the infrastructure manager shall take the utmost account of the European framework for capacity management referred to in Article 7 of this Regulation, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46 of this Regulation and the European framework for performance review referred to in Article 52 of this Regulation.

4. Infrastructure managers shall 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 3 and inform the competent regulatory body and ENIM of that reason.

Article 66

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 comply 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 set out in the Directive (EU) 2016/797 and the delegated and implementing acts adopted thereunder 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 81(2), point (d), of this Regulation provided that those tools allow infrastructure managers to comply with the requirements of this subparagraph.

2. The digital tools deployed and the digital services provided shall:

   (a) ensure effective performance and quality, including full interoperability, of the services infrastructure managers provide to applicants;

(b) 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 set out in Directive (EU) 2016/797;

(c) reduce the administrative burden for applicants by requesting each piece of information once only and by providing information or data in a single place, including as regards cross-border services.

3. Where the digital tools or 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 thereunder, need to be amended, ENIM and infrastructure managers shall contribute to the development and maintenance of such specifications in cooperation with ERA and 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 Europe's Rail Joint Undertaking on issues that fall within the scope of this Regulation. For that purpose, ENIM and the infrastructure managers shall 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, operational stakeholders and, where relevant, the operators of 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 adopted 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.

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.

6. Infrastructure managers shall ensure that the digital tools and digital services referred to in paragraph 1 of this Article are operational by the deadlines set out in Article 81 of this Regulation. The network coordinator shall provide common European digital tools and services for capacity and traffic management developed and deployed in accordance with paragraph 3 of this Article. ERA shall, in accordance with Article 23 of Regulation (EU) 2016/796, monitor the deployment and compliance of the digital systems with 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 67
Responsibilities of regulatory bodies

1. The functions and the powers of a regulatory body laid down in Article 56 of Directive 2012/34/EU shall 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. An applicant, including 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 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 to V of this Regulation.

SECTION 2

EUROPEAN NETWORK OF RAIL REGULATORY BODIES

Article 68

Cooperation of regulatory bodies within the ENRRB

1. For the purpose of fulfilling their responsibilities pursuant to this Regulation, the regulatory bodies shall cooperate in the framework of the ENRRB 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 of this Article.

   When acting within the scope of this Regulation, the ENRRB shall have the tasks and responsibilities and organise its work as set out in this Section.

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 under the coordination of the ENRRB in order to 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, setting 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. That 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 69

Organisation and structure of the 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.

Article 70

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 or 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 set out in Article 68 and promote alignment of decisions of regulatory bodies in relation to cross-border rail services.

3. Operational stakeholders may inform the ENRRB on issues falling within the scope of this Regulation which may affect the access to or the use of railway infrastructure in more than one Member State. Where the ENRRB receives such 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 regulatory bodies concerned about its intention thereto.

4. The ENRRB shall submit its opinion or recommendation to the regulatory bodies concerned within four weeks of receipt of all the relevant information regarding the issue in question. The ENRRB may extend the period for particularly complex matters.

5. 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 the adoption, by regulatory bodies, of the decisions for which those bodies are empowered under this Regulation.

7. The ENRRB shall provide its opinions or recommendations to the Commission on any shortcomings of the coordination process referred to Article 16 and, at the request of the Commission, on emergency measures adopted by Member States having a significant impact on cross-border traffic as referred to in Article 49(5).

8. The ENRRB shall submit its opinion or recommendation to ENIM on the guidelines developed by ENIM on the circumstances giving rise to penalty, as referred to in Article 42(6).

9. The ENRRB may issue own-initiative opinions on matters within its competence.

Article 71

Composition and organisation of the Board

1. The regulatory bodies from each Member State that has a rail network in use 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. 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.

3. 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 publicly available by the secretariat of the ENRRB.

4. 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.

5. 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.

6. The Board shall be co-chaired by the Commission and by 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 two years.

7. The secretariat shall provide the necessary services for organising the meetings and the work of the Board.

8. 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 railway 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 72

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 71(5) or referred to in Article 71(4), opinions or recommendations of the ENRRB on complaints or investigations transmitted to it by a regulatory body or bodies pursuant to Article 68(3);

(b) adopt opinions and recommendations on decisions taken by ENIM working in cooperation with the network coordinator within the scope of this Regulation;

(c) following complaints from railway undertakings, operators of service facilities or other interested parties, adopt recommendations and opinions of the ENRRB in relation to the consultations referred to in Article 63;

(d) draft and adopt an annual report on the ENRRB's activities;

(e) set up working groups and appoint their Chairs;

(f) 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.

Chapter VII
Final provisions

Article 73

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 7, the European framework for the coordination of cross-border traffic management, disruption management and crisis management and the elements thereof referred to in Article 46, and the European framework for performance review and the elements thereof referred to in Article 52.

2. The Advisory Performance Panel shall, within two years of 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 the relevant framework accordingly, 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 the ERP and other operational stakeholders, where relevant.

Article 74

Implementing acts relating to the monitoring of the European frameworks

1. The Commission shall adopt, no later than 18 months from the date when ENIM is to adopt the relevant framework, an implementing act setting out the European frameworks referred to in Articles 7, 46 and 52, 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 7, by … [18 months from the date of 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 46, by … [22 months from the date of 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 52, by … [26 months from the date of entry into force of this Regulation].

2. The Commission shall adopt an implementing act setting out the European frameworks, or elements thereof, referred to in Articles 7, 46 and 52, no later than 12 months after the publication of the Advisory Performance Panel report, where the Commission concludes, taking into account the Advisory Performance Panel report referred to in Article 73, 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 railway 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 73(2).

3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 76(2).

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 75

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 11(9), Article 13(4), Article 23(9), Article 40(3), Article 41(11), Article 42(11) and Article 50(3) shall be conferred on the Commission for a period of five years from … [date of entry into force of this Regulation]. 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 11(9), Article 13(4), Article 23(9), Article 40(3), Article 41(11), Article 42(11) and Article 50(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 11(9), Article 13(4), Article 23(9), Article 40(3), Article 41(11), Article 42(11) or Article 50(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 76

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 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 77

Report and review

By 31 December 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 railway infrastructure services;

(b) the impact of this Regulation on the development of rail transport services, in particular international services, long-distance services and freight services;

(c) the work of ENIM, of the network coordinator and of the ENRRB in general and in relation to the development, adoption and implementation of common criteria, methodologies and procedures;

(d) the effectiveness of the coordination mechanisms within the European framework for capacity management referred to in Article 7, the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46 and the European framework for performance review referred to in Article 52;

(e) the effectiveness of the regulatory oversight at national and European level;

(f) the functioning of the socio-economic, operational and environmental criteria.

Article 78

Amendments to Directive 2012/34/EU

1. Directive 2012/34/EU is amended as follows:

(a) in Article 1(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;

(e) 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.’;

(f) Article 36 is deleted;

(g) Articles 38 to 54 are deleted;

(h) in Annex IV, points (1) and (3) are deleted;

(i) 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 79

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 of Directive 2012/34/EU and Annex IV, point (3), and Annex VII thereto shall not apply to activities and tasks carried out in relation to the working timetables entering into force on or after 14 December 2030.

Article 80

Repeal

1. Regulation (EU) No 913/2010 is repealed with effect from 14 December 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 81

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. This Regulation shall apply from … [one day after the date of entry into force of this Regulation]. However:

   (a) Article 29(2), Article 30(1), Article 50 and Article 66 shall apply from 31 December 2027;

   (b) Article 10(1) and (2) shall apply from 1 January 2029;

   (c) Articles 2 and 3, Chapter II, with the exception of Article 7, Article 10(1) and (2), Article 29(2) and Article 30(1), and Chapter III, with the exception of Articles 46, 49 and 50, shall apply only to activities and tasks carried out in relation to the working timetables entering into force on or after 14 December 2030;

   (d) Article 78 shall apply from 14 December 2030.

3. Notwithstanding paragraph 2 of this Article, Articles 7(7), 8(3), 21(5), 33(12), 35(7), 46(7) and 52(8), and Articles 11(9), 13(4), 23(9), 40(3), 41(11), 42(11) and 50(3) conferring respectively implementing and delegated powers upon the Commission shall apply from … [one day after the date of entry into force of this Regulation].

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

Done at …, …

For the European Parliament	*For the Council*
The President	*The President*

ANNEX I

Deliverables and schedule for capacity management

Section 1

Deliverables to be prepared by infrastructure managers in strategic capacity planning referred to in Articles 13, 18, 19 and 20

Deliverable	Contents
Capacity strategy (Article 18)	– Geographical scope of the capacity strategy: lines covered by the strategic capacity planning pursuant to Article 14(6); – Planned development of physical railway infrastructure, including new construction, upgrades, renewals and closures/decommissioning, detailing the characteristics of that railway infrastructure; – Forecasted development of demand for rail transport services; – The strategic guidance by Member States on capacity utilisation, where Member States have provided such guidance; – Capacity allocated in framework agreements and capacity that may be required to provide transport services under public service contracts; – Information about the availability and utilisation of railway infrastructure, including railway infrastructure declared highly utilised or congested; – Planned railway infrastructure works resulting in capacity restrictions with major impact.

Deliverable	Contents
Capacity model (Article 19)	– All information included in the capacity strategy, where relevant updated and further set out in detail; – Total volume of capacity available, including multi-network capacity, to applicants by network section including volume of capacity available by rail transport market segment for different segment of rail transport services and/or by allocation process, including safeguarded capacity for later requests and capacity assigned by framework agreements; – Volume of capacity reserved for capacity restrictions resulting from railway infrastructure works by impact on the estimated traffic volume, as laid down in Section 3 of this Annex; – Geographical detail: breakdown in appropriate planning sections reflecting railway 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).

Deliverable	Contents
Capacity supply plan (Article 20)	– All information included in the capacity model, where relevant updated and further detailed; – Capacity available for allocation to applicants for the working timetable period to which the capacity supply plan refers: (i) Where applicable under Article 20(5) and in accordance with Article 20(5) and (6), pre-planned capacity available for requests, including multi-network capacity, defined in the form of capacity objects in accordance with Article 20(6); (ii) capacity, which has not been pre-planned by the infrastructure manager; (iii) capacity, which is available in the service facilities referred to in Article 31(1). – Capacity which is not available for allocation to applicants: (i) capacity restrictions, defined in the form of capacity objects, including capacity restrictions referred to in point (2) of Section 3 of this Annex; (ii) capacity already allocated through framework agreements in accordance with Article 33 or through the multi-annual rolling planning process in accordance with Article 35; (iii) capacity reserved for purposes other than those set out in points (i) and (ii), which shall be clearly indicated by the infrastructure manager; (iv) other capacity already allocated, when updating the capacity supply plan during the working timetable to which the capacity supply plan refers. – Alternative capacity available during capacity restrictions; – Alternative capacity available in the event of network disruptions; – Restrictions applicable for the use of specialised railway infrastructure referred to in Article 26.

Section 2

Schedule for strategic capacity management referred to in Articles 13, 18, 19 and 20

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.

The consultation with stakeholders regarding European and cross-border matters shall be carried out in accordance with Article 57 and shall involve all operational stakeholders. Infrastructure managers shall coordinate the deliverables on a continuous basis in the framework of the coordination process provided by Article 55.

Deliverable	Milestone	Deadline (at latest)
Capacity strategy (Article 18)	Start of the capacity strategy elaboration phase	X–60
	First consultation with operational stakeholders	X–58
	Publication of the draft strategy and second consultation with operational stakeholders on the draft strategy	X–39
	Publication of final capacity strategy following final coordination between infrastructure managers and taking into account any comments that the ERP might have issued following the publication of the draft capacity strategy	X–36

Deliverable	Milestone	Deadline (at latest)
Capacity model (Article 19)	Start of preparation	X–36
	Capacity needs announcements by applicants and potential applicants and consultation with operational stakeholders	X–24
	Publication of the draft capacity model and start of the second consultation with applicants, operational stakeholders.	X–21
	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	X–19
	Publication of final capacity model following final coordination between infrastructure managers	X–18
Capacity supply plan (Article 20)	Start of preparation	X–18
	Consultation with applicants and operational stakeholders	X–14
	Regulatory body shall analyse the draft capacity supply plan and may take a decision requiring the infrastructure manager to amend the capacity supply plan	X–14 to X–13
	Publication of capacity restrictions referred to in point (2) of Section 3 of this Annex	X–12
	Publication of final capacity supply plan following final coordination between infrastructure managers	X–11
	Update of capacity supply plan for late requests	X–6,5
	Publication of capacity restrictions referred to in point (5) of Section 3 of this Annex	X–4
	Re-purposing of capacity reserved for allocation through the working timetable for other allocation processes	X–2
	Update of capacity supply plan to reflect any changes to pre-planned or allocated capacity	Until X+12 without delay
Note: 'X–m' means 'm' months before the date of entry into force of the working timetable ('X'), in accordance with Section 4.		

2. By way of derogation from point (1), the following simplified and shortened schedule applies to the deliverable ‘Capacity strategy’ in relation to the working timetable periods starting in December 2030 and December 2031:

Capacity strategy (Article 18)	Publication of the draft strategy and consultation with operational stakeholders	X–38
	Publication of final capacity strategy following final coordination between infrastructure managers and taking into account any comments that the ERP might have issued following the publication of the draft capacity strategy	X–36

Section 3

Schedule and requirements for coordination, consultation and publication of capacity restrictions resulting from railway infrastructure works referred to in Articles 11 and 37

1. 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.

Table 1. Classification of capacity restrictions

	Duration	Impact on traffic	Finalisation of first coordination and consultation and publication of draft capacity restrictions	Finalisation of second coordination and consultation on capacity restrictions with impact on more than one network	Publication of final capacity restrictions	Provision of details on the alternative train paths offered
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
'X–m' means 'm' months before the date of entry into force of the working timetable ('X') in accordance with Section 4						
'T–m' means 'm' months before the start of the train run concerned						

2. As regards capacity restrictions 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. Those railway infrastructure restrictions shall be included in the capacity supply plan referred to in Article 20.

3. When publishing capacity restrictions in accordance with point (2) for a first time, the infrastructure manager shall launch a consultation with the applicants and the 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 infrastructure managers shall consult with applicants and the operators of service facilities concerned a second time between the end of that coordination and the second publication of the capacity restrictions.

4. Before publishing capacity restrictions in accordance with point (1), if the impact of the capacity restrictions is not limited to one network, infrastructure managers shall coordinate among themselves and, if necessary, with applicants concerned 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 for capacity restrictions with major impact.

(b) no later than 13 months and 15 days before the change of the working timetable for capacity restrictions with high impact.

(c) no later than 13 months and 15 days before the change of the working timetable for capacity restrictions with medium impact.

The final publication of capacity restrictions with major, high and medium impact shall be completed at least 12 months before the change of the working timetable concerned.

5. As regards capacity restrictions with a low impact that occur during the following timetable period and that the infrastructure manager becomes aware of no later than six 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 as referred to in point (2) of Annex V.

7. The information to be provided by the infrastructure manager when acting in accordance with points (1) or (5) or Article 37(5) 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 (2) of Annex V. The infrastructure manager shall keep this information updated. In addition, infrastructure managers shall publish this information in digital format in accordance with Articles 10 and 66.

8. As regards capacity restrictions 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 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 among themselves.

9. As regards capacity restrictions 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.

10. ENIM shall publish the information required under point (7) on its website.

Section 4

Schedule for capacity allocation through the annual allocation process referred to in Articles 34 and 40

1. The infrastructure manager and the applicants shall comply with the following schedule:

Milestone or time period	Deadline or duration
Period of validity of the working timetable ('working timetable period')	Starting at midnight on the second Saturday of December up to midnight of the second Saturday of December of the following year.
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 railway infrastructure works	In accordance with Sections 2 and 3 of this Annex
Deadline for applicants to submit requests for capacity rights	X–9,5
Preparation of draft working timetable Deadline for infrastructure manager(s) to submit draft capacity offer to applicants	X–7,5
Finalisation of consultation with applicants	X–6,5
Deadline for infrastructure manager(s) to submit final capacity offer to applicants	X–5,5
Publication of working timetable Deadline for infrastructure manager to allocate capacity rights to applicants	X–5,25
Conversion of capacity specifications into train paths	To be specified by the infrastructure managers in the network statement, taking into account the European framework for capacity management referred to in Article 7
Note: 'X–m' means 'm' months before the date of entry into force of the working timetable ('X')	

2. 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 railway infrastructure capacity referred to in Article 27(4) of Directive 2012/34/EU.

Section 5

Schedule for capacity allocation through framework agreements referred to in Articles 33 and 40

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–9,5 and X–7,5 (jointly with coordination under the annual allocation process referred to in Section 4)
Note: 'X–m' means 'm' months before the date of entry into force of the working timetable ('X') in accordance with Section 4	

Section 6

Schedule for the rolling planning capacity allocation process referred to in Articles 35 and 40

The infrastructure manager and the applicants shall comply with the following schedule during the rolling planning capacity allocation process:

Milestone or time period	Deadline or duration
Earliest point in time for applicants to submit capacity requests under the rolling planning capacity allocation process	Four months before the first train run
Latest point in time for applicants to submit capacity to requests under the rolling planning capacity allocation process	One month before the first train run
Maximum duration of capacity rights granted under the rolling planning capacity 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 35	To be specified by the infrastructure managers taking into account the European framework for capacity management referred to in Article 7
Conversion of capacity specifications in train paths for capacity rights granted in accordance with paragraph 2, point (b) of Article 35	To be specified by the infrastructure managers taking into account the European framework for capacity management referred to in Article 7
Maximum period for infrastructure managers to prepare an offer of capacity rights under the rolling planning capacity allocation process	15 days
Note: 'X–m' means 'm' months before the date of entry into force of the working timetable ('X') in accordance with Section 4	

Section 7

Schedule for capacity allocation through the ad hoc process referred to in Articles 36 and 40

When allocating railway 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	Seven calendar days and in any case 24 hours before the start of the train service

Section 8

Schedule for changes to capacity allocated referred to in Article 41

When changing railway 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	Four calendar days and in any case 24 hours before the start of the train service
Maximum time for infrastructure managers concerned to offer an alternative multi-network capacity right	Eight calendar days and in any case 24 hours before the start of the train service

ANNEX II

Thresholds for the declaration of highly utilised and congested railway infrastructure referred to in Article 23

Utilisation	Classification	Capacity utilisation	Reference period
Heterogenous traffic	Highly utilised	> 85 % of theoretical capacity	More than four hours for more than 200 days per year
Heterogenous traffic	Congested	> 95 % of theoretical capacity	More than four hours for more than 250 days per year
Homogeneous traffic	Highly utilised	> 90 % of theoretical capacity	More than four hours for more than 200 days per year
Homogenous traffic	Congested	> 95 % of theoretical capacity	More than four 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 railway infrastructure on the basis of the methodology referred to in Article 23(2).

'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.

ANNEX III

Contents of the European framework for capacity management
referred to in Article 7

The European framework for capacity management referred to in Article 7 shall contain at least the following elements:

Element	Reference(s)
Types and description of rail transport services to be used for the purposes of strategic capacity planning.	Article 14(2)
Common tools, methodologies and procedural arrangements for strategic capacity planning, including for the coordination between infrastructure managers and the consultation with stakeholders, including for the Capacity Needs Announcements.	Article 14(4), Article 14(10), Article 15, Article 16, Article 19(1), Article 57
Guidelines setting out procedures and methodologies to be used for the transport market analysis	Article 17(3)
Means for publication of the capacity supply plan and process for consultation with applicants	Article 20(11)
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	Article 19(3), Article 20(7)
Criteria and procedures for the allocation of pre-planned capacity included in the capacity supply plan.	Article 22(4)

Element	Reference(s)
Specifications for capacity planning objects in human-readable and in machine-readable format	Article 22(5)
Common method on the utilisation of railway infrastructure capacity	Article 23(2)
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	Article 27(4), Article 39(4)
Characteristics of capacity specifications	Article 28(1)
Ranges for threshold quotas applicable to the cancellation of unused capacity rights	Article 29(3)
Procedures and methods to coordinate the allocation of multi-network capacity rights, including minimum quality requirements.	Article 30(5)
Guidelines on the definition of the limits regarding the differences between capacity requests by applicants and railway infrastructure capacity proposed by infrastructure managers in the consensual conflict resolution process.	Article 38(2)
Guidelines for the consensual conflict resolution mechanism for conflicts including at least one multi-network capacity request	Article 38(7)
Procedures to manage changes to capacity rights after allocation.	Article 41(10)
Guidelines for the application of the modulation of penalties	Article 42(6)
Guidelines for appropriate and regular consultation with interested parties regarding European and cross-border matters	Article 57(2)

ANNEX IV

Minimum and maximum level of the penalty, in accordance with Article 42

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 V

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 shall contain:

(1) a section setting out the nature of the railway infrastructure, which is available to railway undertakings and the conditions of access to it. That 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 railway 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 38 and the formal conflict resolution mechanism referred to in Article 39;

(f) the structure and level of penalties for changes to capacity rights;

(g) the procedures which shall be followed and criteria used where railway infrastructure is highly utilised or congested;

(h) details of restrictions on the use of railway infrastructure;

(i) an explanation for any deviations from the European framework referred to in Article 7;

(3) a section on operations, including on traffic management, disruption management and crisis management. This shall set out the implementation of requirements laid down in this Regulation and in Directives (EU) 2016/797, (EU) 2016/798 and 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 46 of this Regulation;

(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(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 52 of this Regulation.

ANNEX VI

Contents of the European framework for the coordination of cross-border traffic management, disruption management and crisis management referred to in Article 46

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

Element	Reference(s)
Rules and procedures for traffic management and disruption management to be taken into account by infrastructure managers when setting out rules and procedures for traffic management.	Article 45
Common rules and procedures for the coordination of traffic management, disruption management and crisis management between infrastructure managers and with operational stakeholders.	Article 44, Article 45, Article 46(1), Article 46(4) Article 47, Article 48
Guidelines for managing and allocating capacity in the event of network disruptions and crisis situations.	Article 43(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 47
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 47, Article 50, Article 66

Element	Reference(s)
Principles to establish dedicated coordination groups in relation to traffic management, disruption management and crisis management.	Article 55(2)
Arrangements for simulation and training, in particular in relation to disruptions and crisis situations	Article 49(7)
Common method to estimate the conditions on duration and likely impact on traffic and the content of the incident report of the network coordinator	Article 48(7)
Guidelines with the purpose of ensuring appropriate and regular consultation with interested parties regarding European and cross-border matters	Article 57(2)

ANNEX VII

Network Disruptions referred to in Article 48

Type of incident	Estimated likely duration	Estimated likely impact
Network disruption	The return to pre-incident levels of available capacity for train utilisation requires three 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 three 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 VIII

Contents of the European framework for performance review referred to in Article 52

Performance area	Relevant issues (indicative)
Railway infrastructure and equipment	– Capacity and capabilities of the physical infrastructure and its equipment, including deployment of TEN-T standards – Reductions in railway infrastructure capacity or capability due to deferred railway infrastructure renewal, maintenance or repair
Railway infrastructure capacity	– 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, at single and multi-network levels – Stability of the capacity offer, in particular in connection with railway infrastructure works – Congested railway infrastructure – Planned dwelling times of trains at border stations
Traffic management	– 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

Performance area	Relevant issues (indicative)
Disruption management and crisis management	– 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	– Support of the processes related to capacity management, traffic management and disruption management – Completeness and quality of the information and data provided as well as ease of access for operational stakeholders – Alignment with European architecture developed in Europe's Rail Joint Undertaking and with the relevant technical specifications in accordance with Directive (EU) 2016/797
Compliance with regulation; regulatory oversight	– Process indicators monitoring compliance with rules and procedures – Complaints lodged with regulatory bodies and the ENRRB
Arrangements to review the performance of traffic management, disruptions management and crisis management, including the coordination between operational stakeholders	
Guidelines with the purpose of ensuring appropriate and regular consultation with interested parties regarding European and cross-border matters, as referred to in Article 57(2)	

ANNEX IX

Information to be provided to operational stakeholders referred to in Article 50

The following information, provided where applicable in accordance with Directive (EU) 2016/797 and the relevant implementing acts adopted thereunder, and subject to the respective responsibilities of stakeholders as referred to by the Commission Regulation (EU) 2026/253[1].shall be provided under Article 50 of this Regulation:

Information provided by the infrastructure manager:

– Train number

– Train reporting

– Path allocation

– Train running information and train forecast information

– Service disruption information

– Data exchange for quality improvement

[1] Commission Implementing Regulation (EU) 2026/253 of 6 February 2026 on a technical specification relating to the telematics subsystem of the rail system in the European Union for interoperability of data sharing in rail transport ('TEL TSI') and repealing Regulations (EU) No 454/2011 ('TAP TSI') and (EU) No 1305/2014 ('TAF TSI') (OJ L, 2026/253, 10.2.2026, ELI: http://data.europa.eu/eli/reg_impl/2026/253/oj).

Information provided by other operational stakeholders:

– Consignment note data

– Path request

– Train preparation

– Train running information and train forecast information

– 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 X

Correlation Tables

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

Directive 2012/34/EU	This Regulation
Article 2(6)	Article 40(2)
Article 3, point (20)	Article 23 and Annex II
Article 3, point (22)	Articles 38 and 39
Article 3, point (23)	Article 5, point (6) and Article 33
Article 3, point (27)	Article 5, point (9)
Article 3, point (28)	Article 5, point 14
Article 7b(1)	Article 3(1)
Article 7b(2)	Article 3(3)
Article 7b(3)	Article 3(4) and Article 2(4), point (b)
Article 36	Article 42
Article 38(1)	Article 28(1), second subparagraph and Article 28(5)
Article 38(2)	Article 28(3)
Article 38(3)	Article 28(4)
Article 38(4)	Article 28(7)
Article 39(1)	Article 13(3)
Article 39(2)	Article 3(2)
Article 40(1)	Article 16, Article 30 and Article 55
Article 40(2)	Article 58(10), Article 61(2), Article 67(1), Article 68(1) and (7)

Directive 2012/34/EU	This Regulation
Article 40(3)	Article 58(3) and (8)
Article 40(4)	Article 56(1)
Article 40(5)	–
Article 41(1)	Article 8(1)
Article 41(2)	Article 8(2)
Article 41(3)	Article 8(3)
Article 42(1)	Article 33(1)
Article 42(2)	Article 33(6)
Article 42(3)	Article 33(7)
Article 42(4)	Article 33(7)
Article 42(5)	Article 33(8) and Annex I, Section 5
Article 42(6)	Article 33(9)
Article 42(7)	Article 33(11)
Article 42(8)	Article 33(12)
Article 43(1)	Article 40(1), Article 34(5), (6), (7), Article 35(1) and (2) and Annex I, Sections 2, 4, 5, 6 and 7
Article 43(2)	Article 11(9), Article 13(2), Article 23(9), Article 40(3), and Article 41(11)
Article 43(3)	–
Article 44(1)	Article 28(1)
Article 44(2)	Article 34(6) and (7)
Article 44(3)	Article 33(4)
Article 44(4)	Article 30 and Article 66(5)

Directive 2012/34/EU	This Regulation
Article 45(1)	Article 34(1)
Article 45(2)	Article 27
Article 45(3)	Article 34(9)
Article 45(4)	Article 34(10)
Article 46(1)	Article 38(1)
Article 46(2)	Article 38(2)
Article 46(3)	Article 38(3)
Article 46(4)	Article 38(4)
Article 46(5)	Article 38(2)
Article 46(6)	Article 39
Article 47(1)	Article 23(1) and Annex II
Article 47(2)	Article 23(5)
Article 47(3)	Article 27(1)
Article 47(4)	Article 9(1) and (2) and Article 13(3)
Article 47(5)	Article 9(1) and Article 35
Article 47(6)	Article 23(6)
Article 48(1)	Article 36(1)
Article 48(2)	Article 20(5)
Article 49(1)	Article 26(1)
Article 49(2)	Article 26(2)
Article 49(3)	Article 26(3)
Article 50(1)	Article 24(1)
Article 50(2)	Article 24(2)

Directive 2012/34/EU	This Regulation
Article 50(3)	Article 24(1)
Article 51(1)	Article 23(1)
Article 51(2)	Article 25(1) and (2)
Article 51(3)	Article 25(4)
Article 51(4)	Article 25(5)
Article 52(1)	Article 14(9)
Article 52(2)	Article 29(3)
Article 53(1)	Article 37(1)
Article 53(2)	Article 11(2), (4) and Article 37(3)
Article 53(3)	Article 10(1)
Article 54(1)	Article 45(3)
Article 54(2)	Article 45(5)
Article 54(3)	Article 45(7)

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

Regulation (EU) No 913/2010	This Regulation
Articles 1 to 7	–
Article 8	Articles 58(1) to (7), (9), (10) and (11) and Article 60(1), points (a), (b) and (c) and (g) and Article 60(2)
Article 9(1)	Article 16(1), Article 24(3) and (4), Article 25(3) and Article 61
Article 9(1), points (a), (c), (d) and (e), Article 9(2), Article 9(3), Article 9(4) and Article 9(5)	–
Article 9(1), point (b)	Article 17 and Article 24(3) and (4)
Article 10	–
Article 11	Article 58(1) to (7), (9), (10) and (11)
Articles 12 to 18	–
Article 19	Article 51 and Article 70(7) and (8)
Articles 20 to 25	–