

To
 the members of the TRAN Committee in the European Parliament
 the transport ministries in the Member States of the European Union
 the Directorate-General for Mobility and Transport of the European Commission

Tuesday, 04 November 2025

The current state of the Capacity Regulation leaves the European railway network fragmented and risks leaving rail freight behind

To the Trilogue Negotiators on the Rail Infrastructure Capacity Management Regulation,

On 18 November 2025, the next trilogue meeting on the use of railway infrastructure capacity in the single European railway area will be held in Brussels. This meeting could lead to the finalisation of the single most important European railway policy since the 4th railway package and is urgently required to move Europe towards the goals of the Smart and Sustainable Mobility Strategy of 2020: Increasing rail freight traffic by 50 percent by 2030 and doubling it by 2050. We call for a growth- and customer-oriented approach on the remaining open points in the negotiations and a political push for more extensive Europeanisation of infrastructure management in the future.

The signatories to this letter – representing rail freight and combined transport stakeholders from Austria, Belgium, Czech Republic, Germany, Hungary, Italy, Netherlands, Poland, Slovakia, and Sweden as well as European associations – have carefully assessed the current state of discussions. Although progress on this important file is vital, significant concerns remain with the current state of the text. With rising prices for operators and falling rail freight transport volumes, the success of the Capacity Regulation is mandatory to provide more and better-quality train paths for rail freight.

We appreciate the newly introduced concepts of rolling planning, multi-network capacity rights, and the addition of a formalised voice for authorised applicants. Nonetheless, in its current form the Regulation has neither the provisions nor the institutions to provide for the harmonised European capacity management needed to set rail freight on equal footing with road transport. Furthermore, several alarming points might undermine the success of the proposal and must be addressed in the final negotiations.

The Regulation lacks bindingness to be effective on crucial issues. The European Frameworks that ought to harmonise capacity management, traffic and crisis management, as well as performance review of infrastructure managers are left to solemnly be agreed between the national infrastructure managers. Applicants and regulatory bodies are reduced to a consulting role. Most of what is hoped to be achieved through the ‘European Frameworks’ could have been done by infrastructure managers without the Regulation – they have chosen not to do it, and at this point they are not obligated to do so going forward.

Member States have reserved the right to overrule these relatively weak agreements of infrastructure managers with so-called ‘strategic guidance’. Consequently, even for many of the harmonised non-binding rules that infrastructure managers give themselves,

Member States might opt out. Allowing these extensive possibilities for circumventing harmonisation puts the aim, that Member States want to achieve with this Regulation, at risk: Taking the necessary steps towards a Single European Railway Area.

For rail freight undertakings, the contents of the European Frameworks are neither dependable nor enforceable since they are not European Law. United sector efforts to anchor a voice for railway operators in the upcoming compromise led to the European Railway Platform, that is to be consulted by infrastructure managers. While we welcome this as a step in the right direction, there are neither dedicated resources, nor a veto, nor a vote for railway undertakings and also no obligation for infrastructure managers to actually listen to their customers. While the provisions directly included in the Regulation are enforceable by the national regulatory bodies, the content of the European Frameworks cannot be challenged at the European level and national implementation cannot be enforced. In consequence, the European Commission needs to be empowered to at least partially fulfil that role.

Crucial issues are completely missing from the Regulation, like harmonisation of track access charges or compensations for additional production costs in case of changes and cancellations initiated by infrastructure managers. Severe long-term capacity restrictions without minimum service guarantees for rail freight, like the current corridor closures in Germany, will not be prevented. In this instance, railway undertakings have asked for realistic diversion-concepts, the improvement of alternative routes before closures begin, or the examination of single-track operation. Nonetheless, the responsible infrastructure manager has not listened to the sectors concerns and is failing to provide sufficient and economically feasible diversion capacity. Without compensation, this leads to a reverse modal shift from rail to road. The Regulation needs to be able to prevent such outcomes.

The signatories have pointed out their position on the Capacity Regulation in various position papers, dialogues, and statements to the institutions involved in the legislative process. Despite these interventions, results have been mixed, underlining the need for further harmonisation going forward. Important parts of the Regulation still seem to be under discussion. Those will be decisive on whether the Capacity Regulation will bring benefits for the rail freight market.

We urge legislators to consider the following points in the upcoming trilogue:

Commercial Conditions

- A fair system of penalties is needed for railways to compete with other modes of transport. Railway undertakings are for-profit businesses and need to be able to make reliable commitments to their customers. The current proposal is not reflecting that onto the relationship of infrastructure manager and railway undertaking, which remains unbalanced in the favour of infrastructure managers. This needs to be corrected to provide a real incentive for infrastructure managers to keep their capacity contracts:

- For applicants, paying the full amount of track access charges for an unused capacity right constitutes already a strong economic incentive. There is no service that charges extra costs if not used. Therefore, non-usage of a capacity right should not cost more than the full track access charges.
- For infrastructure managers, penalties should be due from the moment a capacity right is allocated to the applicant. There must be no exceptions for temporary capacity restrictions scheduled afterwards, including for temporary capacity restrictions beyond the control of the infrastructure manager or when applying those deadlines would be seen as cost ineffective or unnecessarily damaging for the infrastructure manager. Railway undertakings are affected regardless of the deadline being met, since they have already entered contractual obligations with their customers based on allocated capacity.
- Penalties must provide a real incentive for infrastructure managers to fully adhere to their contractual obligations. Infrastructure managers should be obligated to pay penalties for the entire multi-network capacity right and they should not be connected to an unrelated changing variable like Track Access Charges. This should be a per-kilometre flat rate differentiating per market segment.
- Defining penalties based on only the section of the responsible infrastructure manager directly contradicts the idea of a multi-network capacity right. Especially since the consequences for the applicant affect the whole transport. Similarly, the applicant would have to pay a penalty for the entirety of the capacity right it cancels.
- Capping the penalty for the infrastructure manager responsible for a smaller part of the multi-network capacity right would not create an effective and balanced system. The capped penalty may be too low to provide a real incentive for the infrastructure manager. Therefore, the cap for the infrastructure managers should be removed.
- Penalties should incentivize reliable and responsible behaviour. These should not replace any compensation claims by either infrastructure managers or applicants for economic damages suffered from changes to allocated capacity rights. Penalties therefore must not rule out compensation.

Temporary Capacity Restrictions

- Works on the infrastructure are important to maintain its physical conditions and parameters. However, impact to the running train must be minimised. Therefore, it is important to allow for improved planning of temporary capacity restrictions including a consultation of the affected market stakeholders. Through an unconditional delegated act, the European Commission must be empowered to modify the respective Annex 1 (3) to formalise a better approach currently tested by the sector.

Empowerments for the European Commission

- The European Frameworks will be dominated by the position of infrastructure managers and will not be legally binding. To mitigate a situation where the success of the harmonization efforts or market compatibility is at risk, it is crucial that some elements can be made legally binding through empowerments. The European Commission must have the right to propose delegated or implementing acts without further conditionality and at any time to formalise input from the sector. This should apply particularly and at least to the following elements:
 - Delegated Act for Article 6, to set out the European Framework for capacity management or elements thereof.
 - Delegated Act for article 10(8) to Amend Annex I, section 3 for an improved TCR process.
 - Implementing act for Article 40(7): Set out the categorisation of changes to capacity rights as well as the conditions giving rise to penalties.
 - Delegated act for Article 33 to set out detailed rules regarding the rolling planning process.
 - Delegated act for Article 39(9) to amend Annex I, section 8 (changes to capacity).
 - Implementing act for Article 54 to define stakeholder consultation process.
 - Implementing act for Article 50(5) to detail the Performance Review.

Capacity Supply Plan

- The overall balance of the capacity supply plan is key to its reliability and success. Infrastructure managers should therefore be required to ensure the overall balance of the capacity supply plan.

We wish the Trilogue negotiators much success in the important work ahead and urge them to prioritise market needs. Only by placing the needs of applicants at the center, the Capacity Regulation can activate the full potential of rail freight in Europe and contribute to a modal shift to rail.

Yours sincerely

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