Fourth Railway Package

Political Dossiers - Governance

No changes for integrated rails (Holding)

The European Commission is planning a complete “unbundling” or strict separation of operation/infrastructure in case of integrated railway companies (“Chinese Walls”). Apart from that, there are no threshold values for small railway companies.

- The removal of synergies for joint procurement, joint personnel planning, joint system planning etc. will make the railway system more expensive
- Personnel planning will be much harder because of the no longer existing joint personnel pool within the group. The way of distributing employees between individual companies in case of fragmentation also remains unclear.
- There is no connection between the degree of company fragmentation and high market shares or satisfied customers. More rail (market shares) and better rail (customer satisfaction) exist where politicians want them to be and not where the order of the day has been separation or liberalisation. The most successful operators in rail passenger and goods transport are all integrated.

The overall rail system becomes more expensive and less safe. Hence, any further unbundling has to be rejected.

Example: Local railway Vienna: 30 km network - € 600.000 additional costs p.a., CER: additional costs in EU 5.8 - € 14.5 billion p.a.

2012/34 Governance, Holding, Art 7 – 7e	Amendments
Adoption +	155, 191, **193 (!), 194 (!), 195 (!), 196 (!), 197 (!), 198 (!), 199 (!), 200 (!),** 206, 219, 222, **245 (!), 246 (!), 247 (!), 248 (!), 249 (!), 250 (!), 251 (!),** 252, 253, 256, 257, 258, 260, 261, 262, 266, 267, 273, 274, 280, 281, 282, 283, 293, 294, 295, 304, 305, 306, 307, 308, 309, 311, 312, 319, 320, 321, 322, 328, 329, 330, 336, 337, 338, 343, 344, 345, 349, 350, 351, 352, 353, 354, 357, 358, 359, 360, 364, 365, 366, 367, 369, 370, 371, 372, 373, 376, 377, 378, 379, 380, 381, 382, 387, 391, 394, 395, 401, 402, 411, 414, 420, 423, 424, 425, 435, 436, 437, 439
Rejection -	**COMP 1 (!), COMP 2 (!), COMP 3 (!),** 81, 84, 95, 97, 99, 109, 201, 209, 211, 212, 213, 214, 215, 216, 217, 218, 220, 221, 223, 224, 225, 226, 227, 236, 237, 238, 239, 242, 259, 263, 264, 265, 268, 269, 270, 271, 272, 275, 276, 296, 297, 298, 299, 300, 301, 302, 303, 323, 324, 325, 326, 327, 331, 332, 333, 334, 335, 339, 341, 342, 346, 347, 348, 361, 362, 363, 368, 374, 375, 385, 386, 390, 396, 397, 398, 403, 413, 426, 427, 440, 512, 563

Open Access across the entire rail passenger transport

If the Commission had its way, in the future a railway company based in Portugal with Greek safety certification would be able to operate regional transport between Klagenfurt and Villach, Vienna and Bratislava with Bulgarian train drivers and Hungarian train attendants. According to the Commission, such an approach would make the rail system more efficient, less expensive and less complicated, which in turn would improve customer satisfaction. However, based on statistical facts, this approach lacks any evidence.

The best trains and the most satisfied customers can be found, where the word liberalisation is not even mentioned: in Switzerland. There, nobody would dream of endangering the successful model through liberalisation.

The EU Member States' experiences as well as the official EUROSTAT statistics and the Eurobarometer surveys show - based on facts - that there is no connection between customer satisfaction and the degree of liberalisation. Furthermore, there is no connection between the degree of liberalisation and the performance of (safe and ecological) train services in terms of of high market shares.

Another opening would exclusively lead to cherry picking, rendering train systems more expensive and less efficient.

2012/34 Governance, Art 10 +11, Open Access	Amendments
Adoption +	**441 (!), 442 (!), 444 (!), 459 (!),** 465, 470
Rejection -	**COMP 4 (!)**, 117, 118, 443, 447, 448, 451, **456 (!),** 460, 461, 464, 466, 467, 470, 474, 475, 476

Criteria on the threat to public transport

There are no clear criteria to define when a public transport service is at risk of being shut down. There are, however, sizeable (regional) differences. For example, in respect of transport services for specific user groups, which otherwise would have no access to transportation (pupils, the elderly etc.), specific transport policy objectives (regular interval timetables, transport outside peak times etc.), requirements of commuter transportation etc.
It is necessary to provide Member States with the responsibility and the means for these decisions. The Member States are best suited to recognise the specific needs of their respective population and to act accordingly. There are large regional differences with regard to requirements on services of general interest and public services. Hence, these criteria have to be defined by the Member States.

2012/34 Governance, Criteria public transport Art. 11, 2 sub. 1	Amendments
Adoption +	**459 (!),** 463
Rejection -	460, 461

Impact on workforce

Admittedly, there is no connection between degree of liberalisation, passenger satisfaction and rail effectiveness. However, **the connection between the deterioration of working conditions and liberalisation is undisputed**. Apart from the daily railway customers, it is the employees who suffer the most from further liberalisation. The consequences include

- enormous staff reduction,
- new working time regimes: flexibilisation, consolidation and extension, growing intensification of work and stress, introduction of precarious and atypical forms of employment,
- pay cuts: reduction of pay rises, poorer or no collective agreements (for example in case of outsourcing) – wage reduction of up to 25 % for new employees, lower wages in case of outsourcing and new providers, reduction of allowances and bonuses, move towards wage dumping – risk of low-pay sectors being established, individualisation of employment relationships: income uncertainty,
- reduction of apprenticeships and further training.

In doing so, the Directorate General for Mobility and Transport of the European Commission makes a mockery of the efforts of the other DGs, in particular of the Directorate General for Employment, where attempts are made

- to keep people in work for longer,
- to create quality jobs,
- to enhance the ability to work.

2012/34 Governance, Workforce		Amendments
Adoption	+	9, 10, 21, 126, 129, 131, 135, 138, 141, 142, **558 (!)**
Rejection	-	**50 (!), 51(!), 561 (!)**

Political Dossiers - PSO 1370

General retention of option to award contracts directly

The current system is customer-friendly.

- Customers' degree of satisfaction is totally independent from the degree of liberalisation of the rail system
- **Austria is almost always in the top third in respect of all criteria related to customer satisfaction**
- Usage of rail services is also independent from the degree of liberalisation.
- The annual distance travelled per citizen in Austria is the third highest in Europe
- **In Austrian cities, where contracts are awarded directly, public transport has a high share in the overall transport volume. The high modal split in Vienna for example is looked up to by many operators worldwide.**

PSO - Complete Rejectionion of Proposal	Amendments
Adoption +	**39, 40, 41**

Mandatory introduction of social and quality criteria for tenders; Mandatory transfer of staff

Personnel costs are a major cost factor for rail operators. Hence, there is a lot of pressure to cut costs especially in this area; after all, most tendering procedures are decided on the basis of the costs involved.

- Currently: social criteria possible, but rarely or never applied
- In any case, competition should not take place at employees' expense. On the contrary: social progress must not result in a competitive disadvantage.
- As examples show, the victims are exactly those groups, which are supposed to be helped within the scope of EU employment measures: older employees, women and those lacking qualifications
- The new operator must provide the staff of the losing, former operator with an offer to be transferred to the new operator with the same working conditions; hence, all bidders must calculate accordingly.
- Without this rule, employee rights (higher collective agreement rate, holiday and allowance provisions) obtained over time could be lost every few years.

PSO – Social and Quality Criteria	Amendments
Adoption +	**COMP 6 (!),** 262, **263 (!), 264 (!),** 265, 266, 267, 268, 269, **270 (!),** 272, 273

Rejection -	271

No separating of service contracts in increasingly smaller fragments

- Destroys synergy effects and makes an integrated regular interval timetable impossible, which does not exactly increase the appeal of public transport in Austria
- In Austria, even smaller local rail services, such as the Attergaubahn would be affected
- Tendering leads to oligopolies; price reductions cannot be expected in the long run.

PSO – Fragmentation	Amendments
Adoption +	**154 (!), 155 (!), 156 (!), 170 (!),171 (!), 172 (!), 173 (!), 174 (!), 178 (!), 179 (!), 180 (!), 234 (!), 235 (!), 236 (!), 241 (!), 242 (!), 243 (!), 244 (!), 245 (!), 246 (!), 247 (!), 248 (!), 249 (!)**, 278, 279, **327 (!), 328 (!), 329 (!), 330 (!), 331 (!), 332 (!), 333 (!), 334 (!), 335 (!)**
Rejection -	**COMP 4 (!), 250 (!), 251 (!), 252 (!), 253 (!), 255 (!),** 256, 257

Rolling stock risk must not be imposed on authorities

- In general it is the wrong way to assign profits to private operators but risk and losses to the public.
- There is a dilemma between the lifespan of rolling stock and the duration of public service contracts – the Commission wants to oblige tendering authorities to bear the residual value risk of vehicles, giving them the following options : authority owns rolling stock, authority gives bank guarantee, authority obliges railway undertakings to transfer rolling stock to other undertaking.
- expropriation of companies
- Where is the entrepreneurial risk?
- Additional burden of the public sector
- Transfer of rolling stock is planned as a mandatory provision, of employees as an optional provision - what is more important?

PSO – Rolling Stock	Amendments
Adoption +	**343 (!), 344 (!)**, 359, 360, 364, 374, 377, 380, 381, 382, 383, 384
Rejection -	**COMP 11 (!), 345 (!), 346 (!)**, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 361, 362, 363, 365, 366, 367, 368, 369, 371, 372, 373, 375, 376, 378

No prohibition of direct award

- The option of awarding contracts directly shall be retained as far as possible as this is a cost-effective, flexible and simple way of awarding contracts, on the basis of which complex systems too can be organised in a customer-friendly and cost effective manner (e.g.: Vienna city train system)
- Any direct award with the obligation to state reasons in advance as it is considered in some amendments, is NO real retention, but an abolition through the backdoor, as NO authority can provide legally safe reasons in advance why a contract, which has been awarded directly, is more cost effective in the end (as soon as the price is known, any unsuccessful bidder is able to undercut it by 1 Euro, thereby overriding the direct award as inadmissible).

PSO – Direct Award		Amendments
Adoption	+	**294 (!), 295 (!), 296 (!), 297 (!), 298 (!), 301 (!)**, 302, **309 (!)**, 312, 313, **314 (!), 319 (!)**, 323, 324, **386 (!)**
Rejection	-	**COMP 9 (!), COMP 10 (!)**, 45, 299, 303, **306 (!),** 308, 310, 311, **322 (!), 339 (!), 340 (!), 341 (!)**, 385

Technical Dossiers

Regulation on the agency

Certification of entire safety-relevant staff (at least: technical wagon service, persons on the train, train dispatcher)

Currently only locomotive drivers are standardized in rail regulation. All other employees are subject to many different training programmes and requirements.
In contrast to road transport, where all decisions are taken by the driver, in rail transport there is far greater cooperation by different professional groups. Hence, locomotive drivers have to cooperate with train dispatchers (for example for directives on the railroads), with train attendants (dispatching the train), wagon masters (brake test) and other employees. Only if the level of training of all involved is up to the task it is possible to operate safely. This applies to normal operations and in particular to unusual events (standstill, clearing / evacuation, technical defects of the rolling stock, infrastructure defects).

In contrast to road traffic, rail safety cannot be the responsibility of one professional group alone.

It is therefore important to certify the entire safety-relevant staff, at least the staff on the train, the train dispatcher and the technical wagon service.

The regulations, which currently exist in TSI-OPE, are by no means adequate; for some professional groups they just about define the minimum age.

Regulation Agency Certification Personal with safety Tasks		Amendments
Adoption	+	**92 (!)**, 103, **144 (!)**, 148 (!), 256, 257, **260 (!)**
Rejection	-	COMP B,

Horizontal working group

The tasks of the agency shall cover a wide range. In the existing working groups of the agency safety at work is often reduced to the properties of materials and substances (anti-glare, slipresistance…). This is also vitally but not sufficient. For safe railways, the functional interaction of the components has to be considered. The Agency shall set up a horizontal working group on occupational health and safety with regard to interoperability.

Regulation Agency Horizontal working group		Amendments
Adoption	+	102, **261 (!), 262 (!)**

Additional provisions of Member States on training and comfort

Existing arrangements which have proved their worth must not be done away with. Safety downgrading must be prevented. Furthermore, because the Union's territory is not homogeneous, Member States must continue to be allowed to lay down quality criteria for passenger trains.

Regulation Agency Additional Provisions	Amendments
Adoption +	49, 142, 147, 151, 205, 210,

Directive on railway Safety

Inspections on the track

The control activities are different in individual Member States. There are in fact no comprehensive controls whether vehicles conform to TSIs, whether they are maintained properly, whether they are used correctly and whether their load has been properly secured. At the same time, there are no standards to review the level of training of the personnel employed.

Such regulations are a matter of course on the road; after all, this is the only way to avoid unfair competition. It is also the only way to maintain a minimum of safety.

Especially in times of significant changes in the rail sector (liberalisation, opening the network, giving up trains operation on an honour system called proof-of-payment, unrestrained crossing between networks of different infrastructure operators) controls are needed, in particular also in view of the Viareggio railway accident.

These controls are a matter of course for other transport carriers; they should be implemented as quickly as possible for rail transport.

Directive on railway safety Inspections on track	Amendments
Adoption +	42, **380 (!)**, **381 (!)**,395, **396 (!)**, 397, 408

Minimum intervals for the rolling stock

There are no uniform provisions in Europe concerning the intervals at which vehicles have to be serviced and maintained. A mandatory inspection as it is the norm for road vehicles in most of the countries, does not exist for rail transport. The European Commission relies on manufacturer's data. This is detrimental to safety; after all, those companies (manufacturers of vehicles and railway companies), which specify long periods or intervals, have an advantage.

In addition, experiences show that this self-regulated system has massive gaps. One example is the German ICE where the long maintenance intervals for the axes specified by the manufacturer have led to dangerous cracks.

It is therefore important to determine minimum intervals for inspections.

Directive on railway safety Minimum intervals	Amendments
Adoption +	65, 97, **218 (!)**, 358
Rejection -	COMP (Art 14 (5a))

Just (Fair) Culture

Just Culture, i.e. the opportunity for all employees to report incidents, near-misses and safety gaps anonymously, has been successful with other transport carriers, above all aviation. The background being that the person reporting any such incidents does not need to worry about negative consequences (penalties, discrimination). This creates an enormous source of information for railway companies, in particular for their management levels, so that they can learn from these occurrences and are able to take appropriate measures (safety, customer comfort etc.).

Directive on railway safety „Just Culture“	Amendments
Adoption +	38, **103 (!)**, 118, 119, **171 (!)**, **172 (!)**, 212, **213 (!)**, **251 (!)**
Rejection -	COMP (Art 4 (1)), COMP (Art 4 (6a))

Supplementing European law by Member States

The European law has gaps both in the technical and the social area. Member States must be allowed to close these. A high level of security must be guaranteed by the Member States until the completion of the European provisions.

Directive on railway safety Additional national provisions	Amendments
Adoption +	4, 11, 12, 42, 43, **89 (!)**, 91, 99, **101 (!)**, **110 (!), 111 (!),** 114, 115, **128 (!)**, **180 (!)**, 182, 183, 184, 185, 196, 222, 223, **230 (!)**, **231 (!)**, **234 (!)**, 235, 237, **242 (!)**, **245 (!)**, 248, 249, **250 (!)**, **267 (!)**, 279, 281, 340, **367 (!)**, 378, 396, 397,398
Rejection -	123, 154, 210

Directive on Interoperability

Barrier-free access, safety

Within the framework of the Interoperability Directive the scope for TSIs will be laid down. The wording in it needs to be more precise in some areas.

On the one hand, barrier-free accessibility has to be implemented. In the TFEU (Article 10 and 19) and in the EU Fundamental Rights Charter (Article 21, 26 and if applicable 25), all contractual parties have clearly come out in favour of the principle of equality and non-discrimination. This amendment is a clarification that these principles will also apply to the rail system. The rail system must - definitely in the medium to long-term - provide barrier-free access for all people.

On the other hand it is vital to improve passenger safety; here Annex III of the Directive is not precise enough. In particular with regard to boarding the train - i.e. the area where most accidents happen - safety gaps have to be closed. The safety of passengers cannot only be limited to closing and opening mechanisms of doors.

Compare among other AMs 145, 149, 435, 436 of the Interoperability Directive

Directive on Interoperability Barrier-free-accesst Safety	Amendments
Adoption +	71, 72,73, 83, 84, 86, 87, 142, **145 (!), 149 (!),** 200, 388, 389, 410, **433 (!)**, **434 (!)**, 435, **436 (!)**, 437, 438, 439, **440 (!)**
Rejection -	COMP 3, COMP 6

Driving and resttime recording device

Rail transport is international. More than 2/3 of ÖBB goods transport rolls at least across one (internal) border. This can entail long working hours for locomotive drivers. Currently there is no Europe-wide forgery-proof recording device in use for driving time and rest periods of train personnel. In particular in respect of cross-border transport, it is impossible to establish the overall working period, as it “restarts” at each border crossing. There is no regulation for carrying resp. using a forgery-proof recording device to record the working times in an (internal) foreign country. Records are only based on the operating hours of locomotives, but not on the working hours of the staff. This opens the floodgates to bypassing any working time regulations.

This leads to unfair competition and is detrimental to safety.

Here, analogical to road transport, where the “digital control device” is a tried and tested standard, a time recording device has to be obligatory.

Interoperability Driving and resttime recording device	Amendments
Adoption +	16, 74, 111, 117, **217 (!)**, 220, 378, **382 (!)**, **397 (!)**, 398, 399, 408

Overview

2012/34 Governance	Amendments
Adoption +	9, 10, 21, 126, 129, 131, 135, 138, 141, 142, 155, 191, **193 (!), 194 (!), 195 (!), 196 (!), 197 (!), 198 (!), 199 (!), 200 (!),** 206, 219, 222, **245 (!), 246 (!), 247 (!), 248 (!), 249 (!), 250 (!), 251 (!),** 252, 253, 256, 257, 258, 260, 261, 262, 266, 267, 273, 274, 280, 281, 282, 283, 293, 294, 295, 304, 305, 306, 307, 308, 309, 311, 312, 319, 320, 321, 322, 328, 329, 330, 336, 337, 338, 343, 344, 345, 349, 350, 351, 352, 353, 354, 357, 358, 359, 360, 364, 365, 366, 367, 369, 370, 371, 372, 373, 376, 377, 378, 379, 380, 381, 382, 387, 391, 394, 395, 401, 402, 411, 414, 420, 423, 424, 425, 435, 436, 437, 439, **441 (!), 442 (!), 444 (!), 459 (!), 459 (!),** 463, 465, 470, **558 (!)**
Rejection -	**COMP 1 (!),COMP 2 (!),COMP 3 (!),COMP 4 (!), 50 (!), 51(!),** 81, 84, 95, 97, 99, 109, 201, 209, 211, 212, 213, 214, 215, 216, 217, 218, 220, 221, 223, 224, 225, 226, 227, 236, 237, 238, 239, 242, 259, 263, 264, 265, 268, 269, 270, 271, 272, 275, 276, 296, 297, 298, 299, 300, 301, 302, 303, 323, 324, 325, 326, 327, 331, 332, 333, 334, 335, 339, 341, 342, 346, 347, 348, 361, 362, 363, 368, 374, 375, 385, 386, 390, 396, 397, 398, 403, 413, 426, 427, 440, 443, 447, 448, 451, **456 (!),** 460, 461, 464, 466, 467, 470, 474, 475, 476, 512, **561 (!),** 563

PSO	Amendments
Adoption +	COMP 1, COMP 2, COMP 3, COMP 5, **COMP 6 (!)**, COMP 8 13, 56, 57, **60 (!), 61 (!), 64 (!),** 65, 67, 69, 70, **73 (!), 74 (!), 76 (!),** 77, **81 (!),** 82, **84 (!), 85 (!),** 90, 95, 97, 102, 103, 104, 105, 106, 107, 108, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 123, 124, 125, 126, 128, 129, 130, 131, 132, 135, **147 (!), 153 (!), 154 (!), 155 (!), 156 (!), 157 (!), 164 (!), 165 (!), 166 (!), 170 (!),171 (!), 172 (!), 173 (!), 174 (!),** 175, 176, 177, **178 (!), 179 (!), 180 (!),** 187, 188, 189, 190, 192, 194, **200 (!), 201 (!), 202 (!), 203 (!), 204 (!), 205 (!)**, 206, **210 (!), 211 (!), 213 (!), 214 (!),** 217, **223 (!)**, 227, **234 (!), 235 (!), 236 (!),** 237, **241 (!), 242 (!), 243 (!), 244 (!), 245 (!), 246 (!), 247 (!), 248 (!), 249 (!),** 262**, 263 (!), 264 (!),** 265, 266, 267, 268, 269, **270 (!),** 272, 273, 278, 279, **294 (!), 295 (!), 296 (!), 297 (!), 298 (!),301 (!)**, 302, **309 (!)**, 312, 313, **314 (!), 319 (!)**, 323, 324, **327 (!), 328 (!), 329 (!), 330 (!), 331 (!), 332 (!), 333 (!), 334 (!), 335 (!), 343 (!), 344 (!),** 359, 360, 364, 374, 377, 379, 380, 381, 382, 383, 384, **386 (!)**, 387, 388, 389, 390, 391, **392 (!),** 395, **399 (!), 400 (!), 401 (!), 402 (!), 405 (!),** 410, 411, 412, **413 (!), 414 (!), 415 (!), 416 (!), 417 (!), 418 (!), 419 (!)**
Rejection -	**COMP 4 (!), COMP 9 (!), COMP 10 (!), COMP 11 (!), COMP 12 (!)** 45, 47, 58, 75, **83 (!),** 92, **94 (!),** 96, **98 (!),** 122, **140 (!), 183 (!),** 185, 186, 191, 193, 229, 230, **250 (!), 251 (!), 252 (!), 253 (!), 255 (!),** 256, 257, 271, 299, 303, **306 (!),** 308, 310, 311, **322 (!), 339 (!), 340 (!), 341 (!), 345 (!), 346 (!)**, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 361, 362, 363, 365, 366, 367, 368, 369, 371, 372, 373, 375, 376, 378, 385, 394, **396 (!)**, 397, 398, 403, 404, 406, **407 (!),** 408, 409

Regulation on agency		Amendments
Adoption	+	49, 92, 102, 103, 142, **144 (!)**,147, **148 (!)**,151, 205, 210, 256, 257, **260 (!)**, **261 (!), 262 (!)**
Rejection	-	COMP B,

Directive on railway safety		Amendments
Adoption	+	4, 11, 12, 38, 42, 43, 65, 97, **89 (!),** 91, 99, **101 (!), 103 (!), 110 (!), 111 (!)**, 114, 115, 118, 119, **128 (!), 171 (!)**, **172 (!)**, **180 (!)**, 182, 183, 184, 185, 196, 212, **213 (!)**, **218 (!),** 222, 223, **230 (!), 231 (!)**, **234 (!)**, 235, 237, **242 (!), 245 (!),** 248, 249, **250 (!), 251 (!), 267 (!),** 279, 281, 340, 358, **367 (!),** 378, **380 (!)**, **381 (!)**, 382, 395, **396 (!)**, 397, 398, 408
Rejection	-	COMP (Art 4 (1)), COMP (Art 4 (6a)), COMP (Art 14 (5a)), 123, 154, 210

Directive on Interoperability		Amendments
Adoption	+	16, 71, 72,73, 74, 83, 84, 86, 87, 111, 117, 142, **145 (!), 149 (!), 200 (!), 217 (!)**, 220, 378, **382 (!)**, 388, 389, **397 (!)**, 398, 399, 408, 410, **433 (!)**, **434 (!)**, 435, **436 (!)**, 437, 438, 439, **440 (!)**
Rejection	-	**COMP 3 (!)**, COMP 6

Any queries to

Gregor Lahounik
AK Wien Abt UV
gregor.lahounik@akwien.at
+43 1 50165 2386

PSO:
Joachim Leitner
AK Wien Abt UV
joachim.leitner@akwien.at
+43 1 50165 2748

Robert Loibl
Gewerkschaft vida
Robert.loibl@vida.at
+43 1 53444-79322

PSO:
Heinz Högelsberger
Gewerkschaft vida
heinz.hoegelsberger@vida.at
+43 1 53444-79203