

**Transport, Telecommunications and Energy Council**  
**Transport issues**  
**11 June in Luxembourg**

The Council will start at **10.00**. The meeting will be chaired by **Anrijs Matīss**, the Latvian Minister for Transport.

The Council will seek a general approach on proposed **technical requirements for inland waterway vessels**.

Ministers will take stock of progress on two proposals to liberalise **rail passenger services** and strengthen the **governance** of railway infrastructure. They are part of the "political" or "market" pillar of the fourth railway package.

The Council will take note of progress achieved on a proposed update of the EU rules on **air passenger rights**.

All these three items will be discussed in a public session.

**Press conference:** at the end of the meeting (+/-14.00).

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<sup>1</sup> This note has been drawn up under the responsibility of the press office.

## Inland waterway vessels

The Council will seek a **general approach** on proposed **technical requirements for inland waterway vessels**. The purpose of the directive is to create a clearer legal framework for inland navigation across Europe, by revising an existing directive from 2006. A single, uniform set of technical standards in the EU and beyond would provide legal certainty. The new arrangements would speed up procedures to adapt standards to technical progress. This should ensure a high level of safety, and encourage innovation and investment in new technologies.

Compared to land-based modes of transport, inland waterway transport is energy-efficient, safe and silent, and almost congestion-free. The draft directive is one of the measures aimed at **making a better use of Europe's rivers and canals**, and in particular getting more freight onto them (NAIADES II package).

### Working together with the Central Commission for Navigation on the Rhine (CCNR)

As in other areas of transport policy, EU rules and technical standards governing inland waterway transport need to be aligned with international provisions creating a level playing field. In the inland waterway sector the EU's international partner is the **Central Commission for Navigation on the Rhine (CCNR)**, set up in 1815. The members of the CCNR are Germany, France, Belgium, the Netherlands and Switzerland.

Currently there are two different inland navigation certificates operating in the EU: the EU certificate and the Rhine certificate. The EU certificate is valid on all EU inland waterways, including the Rhine, and the Rhine certificate is valid on all EU inland waterways. The certificates must reflect technological development and be updated regularly. It has therefore been challenging to maintain the equivalence between the two regimes.

### EU to apply standards developed by a new committee under the CCNR

Under the draft directive, the significant expertise that the CCNR has built up over the years in developing and updating technical requirements for inland navigation vessels will be fully used for EU inland waterways. A committee open to experts from all EU member states - the **European Committee for drawing up Standards in Inland Navigation (CESNI)** - was created under the auspices of the CCNR on 3 June 2015. In the future, the **EU will apply technical standards developed by CESNI**. Such standards should automatically apply in their up-to-date version.

The draft directive will only apply to member states in which inland navigation is used to a significant extent. The following member states are therefore not required to implement it: Denmark, Estonia, Ireland, Greece, Spain, Cyprus, Latvia, Malta, Portugal, Slovenia and Finland.

In order to be adopted, the draft directive has to be approved by the Council and the European Parliament. The Parliament adopted its first-reading opinion in April 2014.

- [Technical requirements for inland waterway vessels - draft general approach](#)
- [NAIADES II](#)
- [Central Commission for Navigation on the Rhine \(CCNR\)](#)

## Railway market opening and governance

The Council will **take stock of progress** on two proposals to **liberalise rail passenger services** and **strengthen the governance** of railway infrastructure. The objective of the draft directive and regulation is to make railway services more dynamic and customer-oriented. The new rules should encourage investment and innovation as well as fair competition in the railway market. They are part of the "political" or "market" pillar of the fourth railway package.

### Work in the Council

In the March Council, ministers gave strategic guidance for further work on the proposals. Since then, good progress has been made towards a compromise, but more discussion is needed.

The presidency has prepared a report setting out the progress made so far and presenting suggestions for further discussion:

- [Market opening and governance progress report for June 2015 Council](#)

### Public service obligation (market opening)

The Commission has proposed to open up domestic passenger railways to new entrants and services from December 2019. Companies would be able either to offer competing services, such as a new train service on a particular route, or to bid for public service rail contracts through tendering. The proposed changes would make competitive tendering mandatory for public service rail contracts in the EU.

The **conditions for putting in place competitive tendering** - and the **exceptions** to be allowed - is a major issue that continues to be debated in the Council. Concerns expressed include the suitability of competitive tendering for small markets, the need to ensure long-term continuity of public rail transport services and the potential serious negative socio-economic consequences.

A large number of member states have argued for maintaining direct award on an equal footing with competitive tendering on subsidiarity grounds. If the principle of competitive award is retained, a number of exceptions should be allowed, taking into account the characteristics of national markets.

Most member states think that **deadlines** should be longer than those put forward by the Commission. Under the current presidency proposal, mandatory tendering should be in place by 3 December 2022. Directly awarded existing contracts would be allowed to run no later than 10 years after the new regulation has entered into force.

The presidency considers that all the proposals presented during the discussions should be analysed further and that new proposals could also be envisaged.

## Independence of infrastructure managers (governance)

The proposed stronger rules for the governance of infrastructure managers aim to ensure equal access to rail infrastructure. Under the Commission's vision, fully-fledged infrastructure managers would perform a single, comprehensive set of functions, including infrastructure investment planning and day-to-day operations. Stringent independence requirements would apply to all these functions.

Instead of treating all the functions in a uniform manner, most member states prefer to have two categories of functions, which would be subject to differentiated requirements. The presidency has therefore suggested making a distinction between essential and non-essential functions. Essential functions, which would be governed by the strongest independence rules, could cover for example decision-making on infrastructure charging and capacity allocation.

A core of common rules on such essential functions would apply to both separated and integrated structures. The risk of overregulation for separated structures is a crucial issue for several member states and warrants further consideration.

More work is also required on a number of other issues. These include, *inter alia*, some definitions, outsourcing of functions and management's bonuses. The draft rules on financial transparency should be thoroughly assessed.

## Commission proposals on market opening and governance

After the opening up of rail freight services in 2007 and international passenger transport in 2010, the Commission is proposing that domestic rail passenger services be opened up to competition from December 2019. From then on, EU railway undertakings would have equal access in all EU countries to tracks, signals and stations for the purposes of running domestic passenger services.

Also from 2019, public service contracts, which currently account for over 90% of EU rail journeys, would, as a general rule, be subject to mandatory tendering. Existing, directly awarded contracts would be allowed to run until their expiry date but not after the end of 2022.

The Commission is also suggesting strengthening EU rules on the separation between infrastructure managers, which run the network and stations, and railway undertakings, which provide the services. National railway monopolies comprising both functions would be split in two ("institutional separation"). Alternatively, where member states wished to maintain existing holding structures, strict safeguards would be introduced to ensure the infrastructure manager's independence.

## Fourth railway package - background

The fourth railway package, presented by the Commission in January 2013, aims to remove the remaining barriers to the completion of a Single European Railway Area. The goal is to increase the share of rail transport in relation to other, more carbon-intensive, transport modes, and to foster competitiveness and growth.

The package also includes a **technical pillar**, which consists of proposals on the interoperability and safety of European railways and on the European Railway Agency. The Council is currently negotiating these three proposals with the European Parliament and the discussions have entered a decisive phase.

- [Fourth railway package](#)

## Air passenger rights

The Council will **take note of progress** achieved on a proposed **update of the EU rules on air passenger rights**. A report has been prepared by the presidency:

- [Air passenger rights progress report for June 2015 Council](#)

### Aim of the passenger rights revision

The draft regulation aims to clarify the rules that apply when a flight is delayed or cancelled. It sets out to create more effective complaint handling procedures and strengthen enforcement, monitoring and sanctioning policies. The new rules would also take into account the financial implications that passenger rights create for the air transport sector. The objective is to ensure that European air carriers operate under harmonised conditions in a liberalised market.

### Work in the Council

Solid work has been carried out on the dossier since the last progress report from June 2014. For instance, the current presidency text simplifies the definition of "cancellation" and clarifies which situations should be considered cancellations or delays. Compromises have been found on cabin luggage and on putting extraordinary circumstances of technical nature into a separate binding and exhaustive list. Air carriers' burden of proof has been clarified by setting out that it is up to the carrier to prove the existence of extraordinary circumstances and that cancellation was unavoidable. It also falls on the carrier to prove when and whether the passenger has been informed of the cancellation of their flight.

However, despite the intense work carried out and the progress achieved, further work is needed on a number of issues. Major **outstanding questions** include **thresholds for compensation**. According to the Court of Justice, delays and cancellations should be treated in the same way for compensation purposes, but member states think that the two circumstances are different. Sometimes it may happen that an air carrier cancels a flight for economic reasons, whereas air carriers have less control over delays and have no interest to cause them. Therefore, member states find it essential to protect passengers against any cancellations that are not caused by extraordinary circumstances and to discourage abusive cancellations. This is reflected in the latest presidency text, which proposes to have shorter time thresholds for compensations due to cancellations and longer thresholds for delays.

More reflection is also needed on compensation for **missed connecting flights**. Some delegations consider that any compensation for connecting flights could have negative effects such as higher fares, longer transfer times and reduced connectivity. Others think that the market would take care of that, as passengers would choose airlines with lower fares and reasonable transfer times.

### Procedure for adoption

The Commission presented its proposal to transport ministers in June 2013. The adoption of the regulation requires the approval of both the Council and the European Parliament. The Parliament adopted its position at first reading in February 2014.

- [Strengthening air passenger rights in the EU](#)
- [Commission proposal on revised air passenger rights](#)
- Current rules on air passenger rights:  
[2004 regulation on compensation and assistance to passengers](#)  
[1997 regulation on air carrier liability](#).

## **Other business**

- Report on the interim evaluation of the EU road safety policy framework 2011-2020  
*Information from the Commission*
  - TEN-T & CEF: Christophersen-Bodewig-Secchi Report: State of play of the First CEF call for proposals and TEN-T Days (Riga, 22-23 June 2015)  
*Information from the Commission*
  - Third ASEM Transport Ministers' Meeting (Riga, 29-30 April 2015)  
*Information from the presidency*
  - Shift2Rail Master Plan  
[Information from the Commission on the state of play](#), requested by the French delegation
  - Work programme of the incoming presidency  
*Information from the Luxembourg delegation*
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