



EUROPEAN PARLIAMENT

2009 - 2014

Session document

29.3.2010

B7-0204/2010

MOTION FOR A RESOLUTION

further to Question for Oral Answer B7-0204-2010

pursuant to Rule 115(5) of the Rules of Procedure

on the Implementation of the first railway package Directives (EC n° 2001/12, 2001/13 and 2001/14)

Brian Simpson

on behalf of the Committee on Transport and Tourism

B7-0204/2010

European Parliament resolution on the Implementation of the first railway package Directives (EC n° 2001/12, 2001/13 and 2001/14)

The European Parliament,

- having regard to the oral question of 9 March 2010 to the Commission on the implementation of the first railway package,
 - having regard to the second report from the Commission to the European Parliament and the Council on monitoring development of the rail market (COM(2009)676) and the accompanying Commission staff working paper (SEC(2009)1687),
 - having regard to Directive 2001/12/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community's railways¹,
 - having regard to Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings²,
 - having regard to Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification³,
 - having regard to its resolution of 12 July 2007 on the implementation of the first railway package,
 - having regard to Rules 115(5) of its Rules of Procedure,
- A. whereas the first railway package, which was adopted in 2001 and contains three directives on the development of the Community's railways, on the licensing of railway undertakings and on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification, was intended to revitalise the rail industry by acting as a first step towards the creation of an integrated European railway area,
- B. whereas the directives of the first railway package were due to be transposed into national laws on 15 March 2003, but that the Commission waited until June 2008 before taking any official action to control the implementation of the first railway package,
- C. whereas, on the basis of the second report of the Commission on monitoring the development of the rail market, the rail share in transport has not increased but only stabilised to the low level of around 10% in the rail freight market and to less than 7% for

¹ OJ L 75, 15.3.2001, p.1.

² OJ L 75, 15.3.2001, p.26.

³ OJ L 75, 15.3.2001, p.29.

passenger transport in 2002,

1. Deplores that a large majority of 21 Member States have failed to implement properly the three directives of the first railway package; considers that this failure has prevented the development of rail share in transport in general;
2. Recalls that the Parliament had already underlined in its resolution of 12 July 2007 that a full implementation of the first railway package was an absolute priority; is therefore very dissatisfied that this priority has not been respected by a large majority of Member States including Austria, Belgium, the Czech Republic, Germany, Denmark, Estonia, Greece, Spain, France, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Poland, Portugal, Romania, Sweden, Slovenia and Slovakia;
3. Regrets that the Commission has lost five years to act against this failure and has waited until June 2008 before sending a formal notice and until October 2009 to send reasoned opinions; urges therefore the Commission to initiate without delay the legal proceedings against the 21 Member States which have not implemented the first railway package;
4. Urges the 21 Member States to respect the European legislation without further delay; is convinced that those Member States still prevent fair competition in the rail market by not implementing the directives of the first railway package;
5. Requests that the Commission makes public concrete information on the elements not fully implemented in each Member States, especially on the independence of infrastructure managers, the insufficient set up of an independent regulatory body and the lack of implementation of provisions on track access charging;

Independence of infrastructure managers

6. Stresses that sufficient independence has to be guaranteed to the infrastructure manager, as the latter has a central role, according to the Directive 2001/14/EC in providing fair access to infrastructure capacity to all applicants through the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification ;
7. Considers that the independence of the infrastructure manager is a precondition for allowing fair, transparent and non-discriminatory treatment of all operators ; underlines as particularly worrying that insufficient practical and legal safeguards to guarantee the independence of infrastructure managers have been provided, especially when they are part of a railway holding containing also rail transport activities;
8. Requests that Member States not respecting this provision clearly separate the essential task of allocating capacity on the national rail network from any incumbent railway operator through all necessary legal and functional measures, as this lack of independence could prevent a real determination of the use of infrastructure by the infrastructure manager;

The lack of powers of regulatory bodies

9. Is worried by the fact that no sufficient powers and resources have been attributed to

regulatory bodies and that these insufficiencies lead to a lack of control of competition problems in each national markets;

10. Asks the Commission to inform the Parliament on the powers of the regulatory bodies which need to be reinforced by Member States in order to guarantee them real power to monitor their respective railway markets;
11. Considers that this failure to set up a truly independent regulatory body seriously hinders gravely a proper implementation of the first railway package;

Track access charging

12. Notes that the independence of infrastructure managers and guaranteed powers and resources for regulatory bodies are preconditions for satisfactory track access charging; recalls that these infrastructure charges shall be calculated in a fair, transparent and consistent manner;
13. Expresses concerns at the insufficient implementation of provisions on infrastructure charges, especially the absence of performance scheme in order to improve the performance of the railway network and of tariff systems based on the direct costs of rail services, as well as the lack of independent determination of infrastructure charges by the infrastructure manager;
14. Regrets that, due to this lack of implementation, the infrastructure charges appear not to be directly linked to the costs of train services and that the rail market might not be able to bear these high charges; notes that this high level of infrastructure charges can hinder the entering into the market of non-incumbent operators and that the Commission has received several complaints by operators on the access to terminals and to rail services;

The revision of the first railway package

15. Stresses that a proper and full implementation of the first railway package is a fundamental condition to create a European rail network and that the absolute priority of the European Commission shall be to pursue this implementation by all legal procedures at its disposal;
16. Notes the intention of the Commission to propose a revision of the first railway package in 2010; requests the Commission to treat in priority in this revision the problems of the independence of the infrastructure managers, of the regulatory bodies' lack of resources and powers and of the infrastructure charging;
17. Instructs its President to forward this resolution to forward this resolution to the Council and the Commission.