

# **Sector priorities for the trilogue negotiations on the Regulation on the use of railway infrastructure capacity**

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## Sector priorities

The Regulation on the use of railway infrastructure capacity is a timely and necessary piece of legislation which, if adopted with sufficient ambition, will contribute to modal shift, and to improve the reliability of international rail passenger and freight flows. For the trilogue negotiations, the rail sector, represented by CER, EIM, ERFA, UIP, UIRR, and ALLRAIL, would like to commonly highlight the following critical points from a rail perspective and ask the institutions' representatives to include them in their trilogue compromise agreement concerning the Regulation.

### The sector supports:

1. **Setting up a European Railway Platform (ERP)**, as introduced by the European Parliament. This should include active and potential applicants, to ensure effective coordination and representation of sector consultation in the development of the European Frameworks. This platform shall represent the interests of RUs and other stakeholders involved in railway operations in a transparent and non-discriminatory manner, without prejudice to existing ways of facilitating dialogue and consultation within the sector. This Platform will help to identify and bundle market needs and strengthen the dialogue with ENIM. This applies particularly during the development phase and updates of the European frameworks by ENIM.
2. **Introducing socio-economic and environmental criteria in the decision-making process in case of capacity conflicts as a last resort**, as proposed by the European Commission and supported by the European Parliament. Before being adopted, these criteria should be tested, realistic in terms of information availability, understood and accepted by the sector stakeholders with fully transparent processes. When adopted, these criteria should be based on harmonised approaches and representative values to avoid a patchwork of national allocation priority rules.
3. That **changes to a train path must be managed** by the concerned Infrastructure Managers **in their entirety**, from origin to destination, as proposed by the European Commission in Article 39. This must also be true for multi-network capacity.
4. That **reciprocal commercial conditions** should apply to RUs and IMs to incentivise and encourage optimal use of railway capacity by all involved stakeholders.
5. That **Framework Agreements may be concluded across multiple networks**. Where such capacity is not reserved in the planning documents, infrastructure managers may conclude such agreements without pre-planning, as proposed by the Council. However, since Framework Agreements are regulated by Implementing Regulation (EU) 2016/545, which has been implemented differently at the national levels, this

Regulation would have to be revised for any modifications which are not in line with the current legal framework.

6. **Creating European Frameworks that are to be adhered to**, whilst also allowing **flexibility for IMs to deviate** from the European frameworks where necessary while duly justifying deviations in their network statements, taking into considerations the objectives of this proposed Regulation to facilitate and promote an increasing cross-border traffic in the single European railway area.
7. **Multiannual funding of the Infrastructure Manager** by the Member States to improve early planning and communication of construction sites, thereby minimizing their negative impact on capacity, as proposed by the Parliament. This should support the IM in providing more precise and transparent information to RUs in advance on the planned works.
8. Adding a reference in this regulation to the **KPIs on rail freight as contained in the TEN-T Guidelines Regulation**. The trilogue negotiating parties should agree to reference the operational priorities concerning cross-border freight trains contained in Article 18 paragraph 1 of the TEN-T Guidelines Regulation (2024/1679) in the Capacity Regulation considering the material impact capacity management has on the fulfilment of these priorities.
9. The **alignment of the RFC expiration date and the date of full entry into force of this Regulation**. Such an alignment was proposed by the European Commission. The current versions of the European Parliament and the Council positions leave a gap which would lead to either two legal regimes applicable at the same time (EP) or missing legal rules for some time (Council).
10. **A close coordination by Member States across borders to prevent conflicting strategic guidance** in different Member States, while **expressing concerns regarding the binding nature of these strategic guidance**, as proposed by the Council. Binding national strategic guidance, especially when uncoordinated, has the potential to undermine the objectives of the Regulation.
11. **The limitation of the excessively high number of implementing and delegated acts**. The number of implementing and **delegated acts should be limited to those initially proposed** by the European Commission as these additional secondary acts might delay the implementation of the Regulation.
12. Not postponing the implementation deadlines of parts of the regulation. In case trilogue negotiations are delayed, the implementation deadlines should be adjusted accordingly.