

5 March 2014

## ERFA POSITION on the 4<sup>th</sup> Railway Package AFTER .... the European Parliament first reading vote on 26<sup>th</sup> February 2014

ERFA was very active towards the Members of the European Parliament before the vote in plenary session to fully inform, warn them and support the well-balanced compromises reached in the EP TRAN Committee and voted with a comfortable majority on the 17<sup>th</sup> December 2013.

And now, what's next?

### **First of all: the results**

***The vote of the 26<sup>th</sup> February is a success for the technical pillar*** of the 4<sup>th</sup> Railway Package: to make it short, it will bring more interoperability, more standardisation in the safety and less national rules.

***The vote of the 26<sup>th</sup> February is not a success in terms of governance:*** Neither the Commission, nor the EP TRAN Committee succeeded to promote their proposal or compromise. The results do not guarantee the Railways Undertakings rights in terms of independence of Infrastructure Managers (IM) (a decision power limited to the path allocation and charging and no more on the traffic control, maintenance, renewals, investments) and also in terms of transfer of financial flows in Vertically Integrated Undertakings. Also, the Regulatory Bodies have less power to control the IM independence!

***We nevertheless observe that the ENIM (European network of Infrastructure Managers) and the associated Coordination Committees - an organisation put forward since long by ERFA - are kept.***

### **What's next?**

The Commission will restart as soon as possible an active and committed discussion with the Council of Transport Ministers. The starting point stays the Commission proposal - which is by far more positive for the new entrants and the opening of the market - and not what has been voted. ... even if some large Member States (DE, FR, IT, ...) will again try to influence the process!

We understand the Commission believes that the atmosphere of this dialogue will be by far more constructive than the parliamentary process which was heavily polluted by various lobbies of which the one of the CER, the Representative Body of the historical Railways Undertakings dominated by the integrated ones.

Should the outcome of this discussion not be suitable to the Commission, it is entitled to withdraw the whole package of just the governance part of it.

This is a very dissuasive tool which may incite the Member States to go in a balanced direction...

If a consensus is reached between the Council and the Commission, the “trilogue” (a dialogue between the Parliament (the TRAN Committee), the Council and the Commission) can start and once a new compromise is found, it will be submitted to a vote: the second reading.

***As best, ERFA sees the following steps for a 4<sup>th</sup> Railway Package adoption by the end of 2015:***

- Agreement in Council at the end of the Italian Presidency in December 2014
- Agreement in trilogue begin 2015
- Vote in a new TRAN Committee in second trimester 2015
- Vote in plenary session and formal adoption by the Parliament in third semester 2015
- Final adoption by the Council end 2015

But the process and planning could be worst and the adoption could be postponed to mid of 2016.

**To withdraw or not withdraw?**

The question could be raised why the Commission does not withdraw its proposal now (and why ERFA does not favour its withdrawal)?

If it was the case that would be seen as denying a parliamentary vote of the MEP’s which could mean an antidemocratic behaviour!

As regards ERFA, we have always criticised the lobby of some historic operators and of the CER that we found antidemocratic. Recommend to withdraw could show incoherency in our policy, which is not!

If the Council pushed by Germany, France or Italy comes in frontal opposition with the Commission, it reserved the right to withdraw (and ERFA to incite it to do...)!

***In conclusion: ERFA considers it is too early to push for an eventual withdrawing.***

As European Representative Body, we are a key interlocutor. ***More than ever, we are committed to defend our rights and to come to a suitable 4<sup>th</sup> Railway Package allowing us to coexist with historic operators without any discrimination of barrier.*** We support the initiative role of the Commission to fully open the market and to install the process and tools to succeed it. We are also confident to the responsible role of the Member States to finally keep the momentum of the European building process and the best possible opening of the Railway market. We are Entrepreneurs, we are the market-openers, ***we trust the Union to find with us the best ways to reach the goals of the SERA (Single European Railway Area)!***