

Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast) (Text with EEA relevance)

## CHAPTER IV

### LEVYING OF CHARGES FOR THE USE OF RAILWAY INFRASTRUCTURE AND ALLOCATION OF RAILWAY INFRASTRUCTURE CAPACITY

#### SECTION 3

#### *Allocation of infrastructure capacity*

#### *Article 47*

#### **Congested infrastructure**

1 Where, after coordination of the requested train paths and consultation with applicants, it is not possible to satisfy requests for infrastructure capacity adequately, the infrastructure manager shall immediately declare that section of infrastructure on which this has occurred to be congested. This shall also be done for infrastructure which can be expected to suffer from insufficient capacity in the near future.

2 Where infrastructure has been declared to be congested, the infrastructure manager shall carry out a capacity analysis as provided for in Article 50, unless a capacity-enhancement plan, as provided for in Article 51, is already being implemented.

3 Where charges in accordance with Article 31(4) have not been levied or have not achieved a satisfactory result and the infrastructure has been declared to be congested, the infrastructure manager may, in addition, employ priority criteria to allocate infrastructure capacity.

4 The priority criteria shall take account of the importance of a service to society relative to any other service which will consequently be excluded.

In order to guarantee the development of adequate transport services within this framework, in particular to comply with public-service requirements or to promote the development of national and international rail freight, Member States may take any measures necessary, under non-discriminatory conditions, to ensure that such services are given priority when infrastructure capacity is allocated.

Member States may, where appropriate, grant the infrastructure manager compensation corresponding to any loss of revenue related to the need to allocate a given capacity to certain services pursuant to the second subparagraph.

Those measures and that compensation shall include taking account of the effect of this exclusion in other Member States.

5 The importance of freight services, and in particular international freight services, shall be given adequate consideration in determining priority criteria.

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6 The procedures to be followed and the criteria to be used where infrastructure is congested shall be set out in the network statement.