

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 51*

#### **Capacity-enhancement plan**

1 Within six months of the completion of a capacity analysis, the infrastructure manager shall produce a capacity-enhancement plan.

2 A capacity-enhancement plan shall be developed after consultation with users of the relevant congested infrastructure.

It shall identify:

- a the reasons for the congestion;
- b the likely future development of traffic;
- c the constraints on infrastructure development;
- d the options and costs for capacity enhancement, including likely changes to access charges.

On the basis of a cost benefit analysis of the possible measures identified, it shall also determine the action to be taken to enhance infrastructure capacity, including a timetable for implementing the measures.

The plan may be subject to prior approval by the Member State.

3 The infrastructure manager shall cease to levy any charges for the relevant infrastructure under Article 31(4) in cases where:

- a it does not produce a capacity-enhancement plan; or
- b it does not make progress with the actions identified in the capacity enhancement plan.

4 Notwithstanding paragraph 3 of this Article, the infrastructure manager may, subject to the approval of the regulatory body referred to in Article 55, continue to levy the charges if:

- a the capacity-enhancement plan cannot be realised for reasons beyond its control; or
- b the options available are not economically or financially viable.