

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 II

DEVELOPMENT OF THE UNION RAILWAYS

SECTION 2

Separation of infrastructure management and transport operations and of different types of transport operations

[^{F1}Article 7a

Independence of the essential functions

1 Member States shall ensure that the infrastructure manager has organisational and decision-making independence within the limits set out in Article 4(2), and Articles 29 and 39, as regards the essential functions.

2 For the application of paragraph 1, Member States shall ensure in particular that:

- a a railway undertaking or any other legal entity does not exercise a decisive influence on the infrastructure manager in relation to the essential functions, without prejudice to the role of the Member States as regards the determination of the charging framework and the capacity allocation framework and specific charging rules in accordance with Articles 29 and 39;
- b a railway undertaking or any other legal entity within the vertically integrated undertaking has no decisive influence on appointments and dismissals of persons in charge of taking decisions on the essential functions;
- c the mobility of persons in charge of the essential functions does not create conflicts of interest.

3 Member States may decide that infrastructure charging and path allocation shall be performed by a charging body and/or by an allocation body that are independent in their legal form, organisation and decision-making from any railway undertaking. In such a case, Member States may decide not to apply the provisions of Article 7(2) and points (c) and (d) of Article 7(3).

Point (a) of Article 7(3) and Article 7(4) shall apply *mutatis mutandis* to the heads of divisions in charge of management of the infrastructure and provision of railway services.

4 The provisions of this Directive referring to the essential functions of an infrastructure manager shall apply to the independent charging and/or allocation body.]

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Textual Amendments

- F1** Inserted by Directive (EU) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (Text with EEA relevance).