

TTR Plenary Day

Session on TTR legal framework

Introduction

THE ISSUE

Current legal framework at EU and national level reflects existing TT procedures

Focus on rules (suitable) for

- ATT requests
- Late requests
- Ad hoc requests
- planned TCRs

TTR proposes new TT procedure with innovative elements

Examples:

- Long term capacity planning
- Rolling planning product
- Safeguarding of capacity for rolling planning requests

— Introduction

THE CHALLENGES

For Pilots

Test innovative
TTR elements

... in current legal
framework

For full roll-out

Find a sound
legal basis for
TTR...

But no 5th railway
package!

— Introduction

How do you see these challenges?

Mission
impossible

Yes, we can!

No idea...

— Introduction

THE KEY PLAYERS

Ministries

European
Commission

IMs/ABs

RUs/
applicants

Regulatory
bodies

Anyone else?

— Potential enablers

POTENTIAL „VARIABLES“ RELEVANT TO TTR IN HIERARCHICAL ORDER

SERA Directive (2012/34/EU)

Annex VII

Framework agreements implementing regulation

Don't change the
main body!

RFC Regulation (913/2010)

Framework for capacity allocation (FCA)

National law

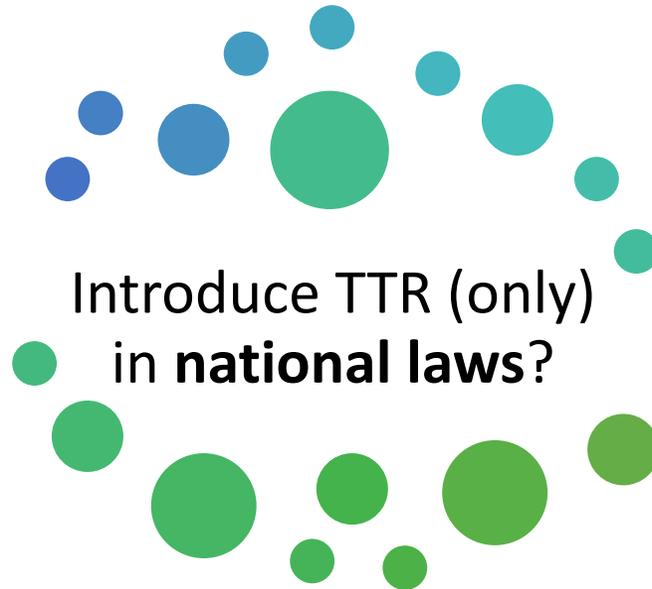
Network statement

Corridor information document

Anything else...?

— Potential enablers

TTR goal: implement an innovative, harmonised timetabling process



NOT PROMISING:

- o National laws are largely predetermined by EU law
- o in remaining areas national laws often lack alignment

ADVANTAGE:

COMMON RULES to be followed in **all EU MS**

— Potential enablers

WHAT ARE PROs AND CONs OF THE DIFFERENT OPTIONS (EU LAW)?

SERA Directive 2012/34

Answers 3, 4, 6

Annex VII

Answers 2, 5, 6

Framework agreements IA

Answers 5, 6, 7

RFC Regulation 913/2010

Answers 1, 3, 4

FCA

Answers 1, 5

Answers:

- 1) has a limited scope of application, which only covers parts of the railway network of EU Member States
- 2) amendments require involvement of experts
- 3) requires “ordinary legislative procedure” (agreement between Council and European Parliament)
- 4) amendment procedures are very time-consuming (several years from impact assessment to adoption)
- 5) can be amended rather swiftly
- 6) has a broad scope of application (basically covering the entire railway network of the EU)
- 7) could only cover specific aspect of TTR (multi-annual RP requests); still IMs would not be obliged to offer framework agreements

— Potential enablers

Preferable solution:

„open minded“ interpretation of Directive 2012/34

AND

revision of Annex VII by means of a Commission delegated act

- Annex VII allows to define „schedule for capacity allocation“
- Revision of Annex VII requires involvement of expert group
- Swift adoption possible (EC to adopt, Council and EP only have scrutiny period)
- Part of TTR (TCR elements) already included in Annex VII
- Can be directly applicable in MS (no risk of diverging transpositions)

Limitation: Annex VII needs to be based on/in line with/related to main body of Directive

— Specific challenges

Reservation & protection of capacity for rolling planning requests

First reactions:

What about this?

“It is forbidden* to reserve capacity for rolling planning requests”

“You cannot protect RP capacity in case of conflicting ATT requests”

Article 48(2) of Directive 2012/34/EU
“Infrastructure managers shall, where necessary, undertake an evaluation of the need for reserve capacity to be kept available within the final scheduled working timetable to enable them to respond rapidly to foreseeable ad hoc requests for capacity. This shall also apply in cases of congested infrastructure.”

*forbidden = in conflict with main body of Directive 2012/34 and national law

— Specific challenges

Reservation & protection of capacity for rolling planning requests

Reactions?

RP requests ≠ ad hoc requests

Still, it is forbidden to reject an ATT request conflicting with safeguarded RP capacity

Arguments to support this approach?

- Intention of legislator in Article 48(2) = intention of TTR -> safeguard capacity for applicants with short term capacity needs (= needs not yet known at X-8) -> goal can only be achieved if this capacity can be protected throughout ATT allocation phase
- Provision on reserve capacity currently hardly used (IMs hardly reserve capacity for ad hoc requests)
- TTR could “revive” this provision by distinguishing between 2 types of ad hoc requests (to be further specified in revised Annex VII):
 - Ad hoc requests for individual paths = “standard” ad hoc requests using residual capacity (= Article 48(1))
 - Foreseeable ad hoc requests = using reserved capacity = RP requests (= Article 48(2))

— Specific challenges

Multi-annual dimension of rolling planning requests

First reactions:

“Train paths can only be allocated for one TT period”*

“You can only do this with framework agreements”

*forbidden = in conflict with main body of Directive 2012/34 and national law

Counter-arguments:

Train paths are only allocated for current/next TT; for future you only get a guarantee for a „slot“

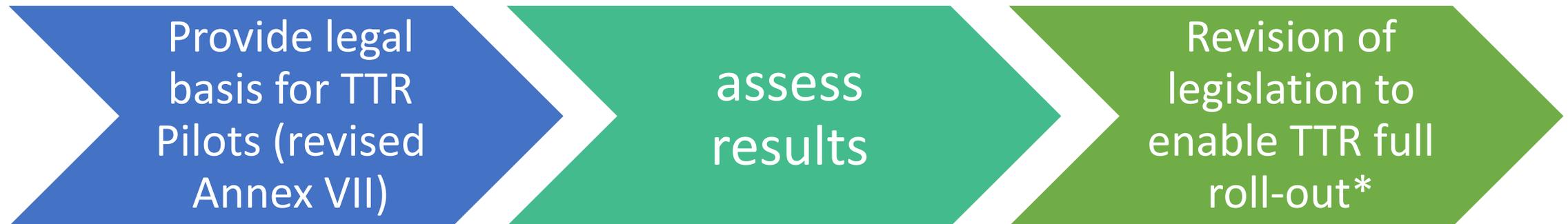
Framework agreements are meant to cover period of 5 years(+); RP is for max. 36 months

— Outlook - next steps

European Commission presented **first draft of revised Annex VII** to support testing of TTR Pilots on 19 September 2019

- Set-up of expert group in coming weeks to provide expert input on the draft
- Mandatory public consultation before adoption

European Commission announced to pursue **2-step approach** for legal framework:



* Envisaged in case of positive results from TTR Pilots

— Concluding remarks

We cannot wait with preparations for TTR full roll-out until we have the perfect legal framework in place

If we aim for full roll out for TT 2025, NS 2022 will already have to contain first information on TTR full roll-out

Decision-makers are likely to adopt acts with short transitional periods, which can only be met if sector is prepared

We need to look for potential (creative) solutions for the legal challenges rather than focusing on obstacles