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► **B** REGULATION (EU) 2020/1429 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 7 October 2020
establishing measures for a sustainable rail market in view of the COVID-19 outbreak
(Text with EEA relevance)
(OJ L 333, 12.10.2020, p. 1)

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▼B**REGULATION (EU) 2020/1429 OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL****of 7 October 2020****establishing measures for a sustainable rail market in view of the
COVID-19 outbreak****(Text with EEA relevance)****▼M1***Article 1*

This Regulation lays down temporary rules on the levying of charges for the use of railway infrastructure as set out in Chapter IV of Directive 2012/34/EU. It applies to the use of railway infrastructure for domestic and international rail services covered by that Directive, during the period from 1 March 2020 until 30 June 2021 ('the reference period').

▼B*Article 2***Reduction, waiver or deferral of charges for the minimum access
package and of reservation charges**

1. Notwithstanding Article 27 and Article 31(3) of Directive 2012/34/EU, and subject to compliance with State aid rules, Member States may authorise infrastructure managers to reduce, waive or defer the payment of charges for the minimum access package, and for access to infrastructure connecting service facilities, where appropriate according to the market segments identified in their network statements, in a transparent, objective and non-discriminatory way, where such payment has or will become due during the reference period.

2. Notwithstanding Article 27 of Directive 2012/34/EU and subject to compliance with State aid rules, Member States may authorise infrastructure managers to reassess the ability of the market segments to bear mark-ups within the meaning of Article 32(1) of Directive 2012/34/EU, for the purpose of a possible reduction of the amounts due in respect of the reference period.

3. Notwithstanding Article 27 and the third sentence of Article 36 of Directive 2012/34/EU, and subject to compliance with State aid rules, Member States may authorise infrastructure managers not to levy reservation charges on any applicant, including railway undertakings, for capacity allocated but not used during the reference period. When doing so, Member States and infrastructure managers shall act in a transparent, objective and non-discriminatory way.

4. Notwithstanding Article 8(4) of Directive 2012/34/EU, and subject to compliance with State aid rules, Member States shall compensate infrastructure managers for the specific financial loss suffered as a result of the application of paragraphs 1, 2 and 3 of this Article by 31 December of the year following the year in which the loss was

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incurred. That compensation is without prejudice to the Member States' obligation under Article 8(4) of Directive 2012/34/EU to ensure that, over a reasonable period, which shall not exceed a period of five years, the profit and loss account of an infrastructure manager shall remain balanced.

5. Member States shall inform the Commission of the measures taken under this Article no later than three months from the date of entry into force of this Regulation, and shall inform the Commission of subsequent measures or changes thereof. The Commission shall make this information publicly available.

*Article 3***Adjustments of the conditions for the use of rail infrastructure**

Infrastructure managers shall amend, as appropriate and without delay, the network statement referred to in Article 27 of Directive 2012/34/EU so as to display the conditions applied by them, in view of the measures taken by the Member State concerned in accordance with Article 2 of this Regulation.

*Article 4***Regulatory body**

Article 56 of Directive 2012/34/EU shall apply to the reduction, waiver or deferral of charges for the minimum access package and of reservation charges referred to in Article 2 of this Regulation and to the adjustments of the conditions for the use of railway infrastructure referred to in Article 3 of this Regulation in respect of the criteria set out in Articles 2 and 3 of this Regulation that are applicable to infrastructure managers.

*Article 5***Extension of the reference period**

1. By 1 November 2020, infrastructure managers shall provide the Commission with data on the usage of their networks categorised by market segments, in accordance with Article 32(1) of Directive 2012/34/EU, for the periods from 1 March 2019 until 30 September 2019 and from 1 March 2020 until 30 September 2020.

Where the reference period is extended, the infrastructure managers shall provide the Commission with a new set of data when half of the prolongation of the reference period has elapsed, in order to allow the Commission to assess the development of the situation during the prolongation of the reference period.

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2. Where the Commission finds, on the basis of the data referred to in paragraph 1, that the reduction in the level of rail traffic as compared to the level in the corresponding period in the previous years is persisting and is likely to persist, and also finds, on the basis of the best available scientific data, that this situation is the result of the impact of the COVID-19 outbreak, the Commission shall adopt delegated acts in accordance with Article 6 to amend the reference period specified in Article 1 accordingly. Any such amendment may only extend the reference period by up to six months, and the reference period may not be extended beyond 14 April 2022.

3. Where, in the case of a prolonged impact of the COVID-19 outbreak on the rail transport sector in the Union, imperative grounds of urgency so require, the procedure provided for in Article 7 shall apply to delegated acts adopted pursuant to this Article.

*Article 6***Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5(2) shall be conferred on the Commission for a period of one year from 13 October 2020.

3. The delegation of power referred to in Article 5(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 7***Urgency procedure**

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 6(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

*Article 8***Entry into force**

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.