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II Atti mhux legiżlattivi

REGOLAMENTI

- ★ **Regolament ta' Implimentazzjoni tal-Kunsill (UE) Nru 453/2011 tal-4 ta' Mejju 2011 li jimponi dazju anti-dumping definittiv fuq importazzjonijiet tal-furfuraldeid li joriginaw mir-Repubblika Popolari taċ-Ċina wara reviżjoni ta' skadenza skont l-Artikolu 11(2) tar-Regolament tal-Kunsill (KE) Nru 1225/2009** 1
- ★ **Regolament tal-Kummissjoni (UE) Nru 454/2011 tal-5 ta' Mejju 2011 dwar l-ispeċifikazzjoni teknika għall-interoperabbiltà relatata mas-subsistema "applikazzjonijiet telematiċi għal servizzi tal-passiġġieri" tas-sistema ferrovjarja trans-Ewropea ⁽¹⁾** 11
- Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru 455/2011 tal-11 ta' Mejju 2011 li jistabilixxi l-valuri fissi tal-importazzjoni għad-determinazzjoni tal-prezz ta' dhul ta' ċertu frott u haxix 68
- Regolament ta' Implimentazzjoni tal-Kummissjoni (UE) Nru 456/2011 tal-11 ta' Mejju 2011 li jemenda l-prezzijiet rappreżentattivi u l-ammonti tad-dazji addizzjonali għall-importazzjoni ta' ċerti prodotti tas-settur taz-zokkor, stabbiliti bir-Regolament (UE) Nru 867/2010 għas-sena tas-suq 2010/11 70

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⁽¹⁾ Test b'relevanza għaž-ŻEE
MT

L-Atti b'titoli b'tipa ċara relatati mal-ġestjoni ta' kuljum ta' affarijiet agrikoli, u li ġeneralment huma validi għal perjodu limitat. It-titoli tal-atti l-oħra kollha huma stampati b'tipa skura u mmarkati b'asterisk quddiemhom.

IV Atti adottati qabel l-1 ta' Dicembru 2009, skont it-Trattat tal-KE, it-Trattat tal-UE u t-Trattat Euratom

- ★ Deciżjoni tal-Awtorità ta' Sorveljanza tal-EFTA Nru 343/09/COL tat-23 ta' Lulju 2009 dwar it-tranzazzjonijiet ta' proprjetà li saru mill-Muniċipalitè ta' Time rigward il-proprjetajiet numri 1/152, 1/301, 1/630, 4/165, 2/70, 2/32 (Norveġja) 72



II

(Atti mhux legiżlattivi)

REGOLAMENTI

REGOLAMENT TA' IMPLIMENTAZZJONI TAL-KUNSILL (UE) Nru 453/2011

tal-4 ta' Mejju 2011

li jimponi dazju anti-dumping definittiv fuq importazzjonijiet tal-furfuraldeid li joriginaw mir-
Repubblika Popolari taċ-Ċina wara reviżjoni ta' skadenza skont l-Artikolu 11(2) tar-Regolament
tal-Kunsill (KE) Nru 1225/2009

IL-KUNSILL TAL-UNJONI EWROPEA,

Wara li kkunsidra t-Trattat dwar il-Funzjonament tal-Unjoni Ewropea,

Wara li kkunsidra r-Regolament tal-Kunsill (KE) Nru 1225/2009 tat-30 ta' Novembru 2009 dwar il-protezzjoni kontra l-importazzjonijiet li huma l-oġġett ta' dumping minn pajjiżi mhux membri tal-Komunità Ewropea ⁽¹⁾ ("ir-Regolament bażiku"), u b'mod partikolari l-Artikolu 11(2) u (5) u l-Artikolu 9(4) tiegħu,

Wara li kkunsidra l-proposta pprezentata mill-Kummissjoni Ewropea ("il-Kummissjoni") wara li kkonsultat lill-Kumitat Konsultattiv,

Billi:

A. PROĊEDURA

1. Miżuri fis-sehh

- (1) Il-Kunsill, wara investigazzjoni ta' anti-dumping ("l-investigazzjoni originali"), permezz tar-Regolament (KE) Nru 95/95 ⁽²⁾, impona dazju anti-dumping definittiv fil-forma ta' dazju speċifiku fuq l-importazzjonijiet ta' furfuraldeid li joriginaw mir-Repubblika Popolari taċ-Ċina ("RPC") ("il-miżuri anti-dumping definittivi"). Ir-rata speċifika ta' dazju giet stabbilita għal EUR 352 għal kull tunnellata.
- (2) Wara reviżjoni interim li nġhatat bidu f'Mejju 1997 fuq talba ta' esportatur Ċiniż, il-miżuri, permezz tar-Regolament (KE) Nru 2722/1999 ⁽³⁾, inżammu għal perijodu ulterjuri ta' erba' snin.

- (3) F'April 2005, il-Kunsill, wara reviżjoni ta' skadenza, permezz tar-Regolament (KE) Nru 639/2005 ⁽⁴⁾, estenda l-miżuri għal perijodu ulterjuri ta' hames snin.

2. Talba għal reviżjoni ta' skadenza

- (4) Wara l-pubblikazzjoni ta' avviż ta' skadenza imminenti ⁽⁵⁾ tal-miżuri anti-dumping definittivi fis-sehh, fit-28 ta' Jannar 2010 l-Kummissjoni rċeviet talba għall-bidu ta' reviżjoni ta' skadenza ta' dawn il-miżuri skont l-Artikolu 11(2) tar-Regolament bażiku. It-talba tressqet minn żewġ produtturi tal-Unjoni, Lenzing AG u Tanin Sevnica kemična industrija d.d. ("l-applikanti"), li jirrapprezentaw sehem ewlieni, f'dan il-każ aktar minn 50 %, tal-produzzjoni tal-Unjoni ta' furfuraldeid.

- (5) It-talba kienet imsejsa fuq ir-raġuni li l-iskadenza tal-miżuri aktarx twassal għall-issoktar ta' dumping u r-rikorrenza ta' hsara għall-industrija tal-Unjoni (l-ITU).

3. Bidu ta' reviżjoni ta' skadenza

- (6) Wara li ddeterminat li kien hemm biżżejjed evidenza għall-bidu ta' reviżjoni ta' skadenza, u wara konsultazzjoni mal-Kumitat Konsultattiv, il-Kummissjoni habbret fis-27 ta' April 2010, permezz ta' avviż ippubblikat f'Il-Ġurnal Uffiċjali tal-Unjoni Ewropea ⁽⁶⁾ ("l-Avviż ta' bidu"), il-bidu ta' reviżjoni ta' skadenza skont l-Artikolu 11(2) tar-Regolament bażiku.

⁽¹⁾ ĠU L 343, 22.12.2009, p. 51.⁽²⁾ ĠU L 15, 21.1.1995, p. 11.⁽³⁾ ĠU L 328, 22.12.1999, p. 1.⁽⁴⁾ ĠU L 107, 28.4.2005, p. 1.⁽⁵⁾ ĠU C 16, 22.1.2010, p. 40.⁽⁶⁾ ĠU C 107, 27.4.2010, p. 10.

4. Investigazzjoni

4.1. Il-perijodu ta' investigazzjoni

- (7) L-investigazzjoni tal-probabbiltà tal-issoktar jew ir-rikorrenza ta' dumping kopriet il-perijodu mill-1 ta' April 2009 sal-31 ta' Marzu 2010 ("il-perijodu tal-investigazzjoni tar-reviżjoni" jew "PIR"). L-eżaminazzjoni tat-xejriet rilevanti għall-valutazzjoni tal-probabbiltà ta' rikorrenza tal-hsara kopra l-perijodu mill-1 ta' Jannar 2007 sat-tmiem tal-perijodu ta' investigazzjoni tar-reviżjoni ("il-perijodu kkunsidrat").

4.2. Il-partijiet ikkonċernati minn din l-investigazzjoni

- (8) Il-Kummissjoni avżat uffiċjalment lill-applikanti, lill-produtturi esportaturi fil-pajjiż ikkonċernat, lill-importaturi, lill-utenti magħrufa li huma kkonċernati, u lir-rappreżentanti tal-pajjiż ikkonċernat dwar il-bidu tar-reviżjoni ta' skadenza.

- (9) Il-partijiet interessati ngħataw l-opportunità li jressqu l-opinjoni tagħhom bil-miktub u li jitolbu seduta fil-limitu taż-żmien stipulat fl-Avviż ta' bidu. Il-partijiet interessati kollha, li talbu dan u wrew li kien hemm raġunijiet partikolari għaliex għandhom jinstemgħu, ingħataw seduta.

4.3. It-tehid ta' kampjuni

- (10) Minhabba li jidher li hemm numru kbir ta' produtturi esportaturi fir-RPĊ, tqies xieraq li jiġi eżaminat jekk għandux jintuża t-tehid ta' kampjuni, skont l-Artikolu 17 tar-Regolament bażiku. Sabiex il-Kummissjoni tkun tista' tiddeċiedi jekk ikunx meħtieġ li jittiehdu kampjuni u, jekk dan ikun il-każ, li jintgħażel kampjun, il-partijiet imsemmija hawn fuq intalbu jipprezentaw rwiehhom fi żmien 15-il jum mill-bidu tar-reviżjoni u jipprovdu l-informazzjoni mitluba fl-Avviż ta' bidu lill-Kummissjoni. Minhabba li l-ebda produttur esportatur ma pprezenta ruhu biex jikkoopera, it-tehid ta' kampjuni ma kienx meħtieġ.

4.4. Il-verifika tal-informazzjoni li ntbaġħtet

- (11) Il-Kummissjoni baġħtet il-kwestjonarji lill-partijiet kollha magħrufa li huma kkonċernati u lil dawh li pprezentaw irwiehhom fil-limiti ta' skadenza stabbiliti fl-Avviż ta' bidu.
- (12) Intbaġħtu twegibiet għall-kwestjonarji miż-żewġ produtturi tal-Unjoni, minn importatur/utent wiehed u produttur wiehed fil-pajjiż analogu, l-Argentina. L-ebda wiehed mill-produtturi esportaturi Ċiniżi ma kkoopera fl-investigazzjoni attwali.

- (13) Il-Kummissjoni fittxet u vverifikat l-informazzjoni kollha li qieset li kienet neċessarja għad-determinazzjoni tal-probabbiltà tal-issoktar jew ir-rikorrenza ta' dumping u l-hsara li tirriżulta minnu u d-determinazzjoni ta' dak li hu fl-interess tal-Unjoni. Twettqu żjarat ta' verifika fuq il-post tal-partijiet interessati li ġejjin:

(a) Produtturi tal-Unjoni

— Lenzing AG, ("Lenzing"), l-Awstrija

— Tanin Sevnica kemična industrija d.d. ("Tanin"), is-Slovenja

(b) Importatur/utent mhux relatat

— International Furan Chemicals BV ("IFC"), Rotterdam

B. IL-PRODOTT IKKONĊERNAT U L-PRODOTT SIMILI

1. Il-prodott ikkonċernat

- (14) Il-prodott ikkonċernat minn din ir-reviżjoni huwa l-istess bħal dak tal-investigazzjoni originali u r-reviżjonijiet li ġejjin imsemmijin hawn fuq fil-premessi (2) u (3), jiġifieri furfuraldeid li joriġina mir-RPĊ, li attwalment jaq' taħt il-kodiċi NM 2932 12 00 ("il-prodott ikkonċernat"). Il-furfuraldeid huwa magħruf ukoll bħala 2-furaldeid jew furfural.

- (15) Il-furfuraldeid huwa likwidu isfar ċar b'riha karatteristika pungenti li jinkiseb bl-ipproċessar ta' tipi differenti ta' skart tal-agrikoltura. Il-furfuraldeid għandu żewġ applikazzjonijiet ewlenin: bħala solvent selettiv fir-raffinar taż-żejt għall-produzzjoni ta' żjut lubrifikanti u bħala materja prima sabiex ikun ipproċessat f'alcohol furfuriliku, li jintuża biex issir ir-reżina sintetika għal forom li jintużaw fil-funderiji.

2. Il-prodott simili

- (16) Bħal ma sehh fl-investigazzjonijiet ta' qabel, din l-investigazzjoni kkonfermat li l-furfuraldeid prodott fir-RPĊ u esportat lejn l-Unjoni Ewropea, il-furfuraldeid prodott u mibjugħ fis-suq domestiku tal-pajjiż analogu l-Argentina u l-furfuraldeid immanifatturat u mibjugħ fl-Unjoni mill-produtturi tal-Unjoni għandhom l-istess karatteristiċi bażiċi fiżiċi u kimiċi, u l-istess użi bażiċi. Għalhekk tqiesu bħala prodotti simili fi hdan it-tifsira tal-Artikolu 1(4) tar-Regolament bażiku.

C. IL-PROBABBILTÀ TAL-ISSOKTAR TAD-DUMPING

- (17) Skont l-Artikolu 11(2) tar-Regolament bażiku, ġie eżaminat jekk l-iskadenza tal-miżuri eżistenti jwassalx probabbilment għall-issoktar jew ir-rikorrenza tad-dumping.

1. Ġenerali

- (18) Mill-34 produttur esportatur magħruf Ċiniż ikkuntattjati fil-bidu, hadd ma kkoopera mal-investigazzjoni u ma tresssjet l-ebda informazzjoni minn ebda minnhom. Għalhekk, is-sejbiet dwar il-possibbiltà tal-issoktar jew ir-rikorrenza tad-dumping imsemmija hawn taht kellhom ikunu msejsa fuq il-fatti disponibbli, b'mod partikolari l-informazzjoni mressqa mill-importatur/l-utent industrijali li qed jikkoopera, id-dejta tal-Eurostat, l-istatistiki tal-esportazzjoni uffiċjali tar-RPĊ u l-informazzjoni fit-talba għal revizjoni.

2. Il-pajjiż analogu

- (19) Billi r-RPĊ hija ekonomija fi tranżizzjoni, skont l-Artikolu 2(7)(a) tar-Regolament bażiku, il-valur normali kellu jiġi ddeterminat abbażi tal-prezz jew tal-valur maħdum f'pajjiż terz b'ekonomija tas-suq xieraq ("il-pajjiż analogu"), jew il-prezz mill-pajjiż analogu għal pajjiżi oħra, inkluża l-Unjoni, jew, fejn dawn mhumiex possibbli fuq kwalunkwe bażi oħra raġonevoli, inkluż il-prezz imhallas realment jew li għandu jithallas fl-Unjoni għall-prodott simili, aġġustat b'mod xieraq jekk meħtieġ biex jinkludi margni ta' profitt raġonevoli.
- (20) Bhal ma seħh fl-investigazzjoni oriġinali, fl-Avviz ta' bidu kienet proposta l-Argentina bhala pajjiż analogu xieraq għall-ghan li jiġi stabbilit il-valur normali. Wara l-pubblikazzjoni tal-Avviz ta' bidu, ma tressaq l-ebda kumment li jikkonċerna l-pajjiż analogu propost.
- (21) Produttur wiehed tal-furfuraldeid fl-Argentina kkoopera mal-investigazzjoni billi wieġeb għal kwestjonarju. L-investigazzjoni wriet li l-Argentina għandha suq kompetittiv għal furfuraldeid b'madwar 90 % tas-suq forniti bi produzzjoni lokali u l-bqija fornita bl-importazzjonijiet minn pajjiżi terzi. Il-volum tal-produzzjoni fl-Argentina jirrappreżenta aktar minn 70 % tal-volum tal-esportazzjonijiet Ċiniżi tal-prodott ikkonċernat lill-Unjoni għall-ipproċessar attiv. Is-suq Argentin kien għalhekk meqjus bhala rappreżentattiv biżżejjed sabiex jiġi ddeterminat il-valur normali għar-RPĊ.
- (22) Għalhekk huwa konkluż, bhal ma ġara fl-investigazzjoni oriġinali, li l-Argentina tikkostitwixxi pajjiż analogu xieraq skont l-Artikolu 2(7)(a) tar-Regolament bażiku.

3. Id-dumping ta' importazzjonijiet matul il-PIR

3.1. Il-valur normali

- (23) Skont l-Artikolu 2(7)(a) tar-Regolament bażiku, il-valur normali kien stabbilit fuq il-baży tal-informazzjoni

mressqa mill-produttur li qed jikkoopera fil-pajjiż analogu, jiġifieri fuq il-baży tal-prezz imhallas jew li għandu jithallas fis-suq domestiku tal-Argentina minn klijenti li mhumiex relatati, peress li dan il-bejgħ instab li jsir fl-andament normali tal-kummerċ.

- (24) B'riżultat ta' dan, il-valur normali ġie stabbilit bhala l-prezz tal-bejgħ medju domestiku peżat lil klijenti li mhumiex relatati mill-produttur li qed jikkoopera fl-Argentina.

- (25) L-ewwel ġie stabbilit jekk il-bejgħ domestiku totali tal-prodott simili lil klijenti indipendenti kienx rappreżentattiv skont l-Artikolu 2(2) tar-Regolament bażiku, jiġifieri jekk kienx jirrappreżenta 5 % jew aktar tal-volum tal-bejgħ totali tal-prodott ikkonċernat esportat lejn l-Unjoni. Il-bejgħ domestiku tal-produttur li qed jikkoopera fl-Argentina tqies rappreżentattiv biżżejjed tul il-PIR.

- (26) Il-Kummissjoni mbaġhad eżaminat jekk il-bejgħ domestiku tal-prodott simili jistax jitqies li qiegħed jinbiegħ fl-andament normali tal-kummerċ skont l-Artikolu 2(4) tar-Regolament bażiku. Dan sar billi, għall-prodott simili mibjugħ fis-suq tal-Argentina, ġie stabbilit il-proporzjon tal-bejgħ domestiku bi profitt lil klijenti indipendenti matul il-PIR. Billi l-bejgħ kollu tal-prodott simili tul il-PIR sar bi profitt, il-valur normali kien imsejjes fuq il-medja peżata tal-bejgħ domestiku kollu.

3.2. Il-prezz tal-esportazzjoni

- (27) Minhabba li l-ebda esportatur Ċiniż lejn l-Unjoni ma kkoopera mal-investigazzjoni, il-prezzijiet tal-esportazzjoni ġew stabbiliti abbaży tal-fatti disponibbli. Il-baży l-aktar xierqa nstabet li kienet l-informazzjoni pprovduta mill-importatur li qed jikkoopera u d-dejta tal-Eurostat firrigward tal-importazzjonijiet lejn l-Unjoni tal-prodott ikkonċernat. Ghalkemm il-maġġoranza ta' dawn l-importazzjonijiet saru skont reġim ta' pproċessar attiv (Inward Processing Regime - IPR) (il-furfuraldeid Ċiniż kien ipproċessat b'mod ulterjuri għal alkohol furfuriliku għall-esportazzjoni), ma kien hemm l-ebda raġuni biex wiehed jemmen li ma kinux baży raġonevoli sabiex jiġu stabbiliti l-prezzijiet tal-esportazzjoni.

3.3. Tqabbil

- (28) Għall-finijiet li jkun żgurat tqabbil ġust bejn il-valur normali u l-prezz tal-esportazzjoni, u skont l-Artikolu 2(10) tar-Regolament bażiku, saret konċessjoni dovuta fil-forma ta' aġġustamenti fir-rigward ta' ċerti differenzi fit-trasport u l-assigurazzjoni, li affteaww il-prezzijiet u t-tqabbil tal-prezzijiet.

3.4. Il-marġni tad-dumping

- (29) Skont l-Artikolu 2(11) tar-Regolament bażiku, il-marġni tad-dumping giet stabbilita abbażi ta' tqabbil tal-valur normali medju peżat mal-prezzijiet tal-esportazzjoni medji peżati fl-istess livell ta' kummerċ. Dan it-tqabbil wera l-eżistenza ta' dumping sinifikanti.

4. L-iżvilupp tal-importazzjonijiet jekk jiġu revokati l-miżuri

- (30) Minbarra l-analiżi tal-eżistenza ta' dumping matul il-PIR, giet investigata l-probabbiltà tal-issoktar ta' dumping jekk jiġu revokati l-miżuri. Minhabba l-fatt li l-ebda produttur esportatur fir-RPĊ ma kkoopera f'din l-investigazzjoni, il-konklużjonijiet hawn taht huma msejsa fuq il-fatti disponibbli skont l-Artikolu 18 tar-Regolament bażiku, jiġifieri l-informazzjoni mressqa mill-importatur li qed jikkooopera, id-dejta tal-Eurostat, l-istatistiki tal-esportazzjoni uffiċjali tar-RPĊ u t-talba għal reviżjoni.
- (31) F'dan ir-rigward ġew analizzati l-elementi li ġejjin: l-iżvilupp tal-importazzjonijiet lejn l-Unjoni mir-RPĊ skont l-IPR, l-iżvilupp tal-esportazzjonijiet Ċiniżi lejn pajjiżi terzi u l-kapaċità żejda tal-produtturi Ċiniżi.

4.1. L-iżvilupp tal-importazzjonijiet mir-RPĊ

- (32) Skont l-istatistiki tal-esportazzjoni uffiċjali Ċiniżi, l-esportazzjonijiet dinjija totali mir-RPĊ tal-prodott ikkonċernat żdiedu b'117 % matul il-perijodu kkunsidrat. Din iż-żieda giet assorbita l-aktar mis-suq tal-Istati Uniti u mis-swieq ta' pajjiżi terzi ohra.
- (33) Fir-rigward tal-esportazzjonijiet lejn l-Unjoni, skont il-Eurostat u d-dejta tal-importazzjoni verifikata, għandu jiġi nnutat li matul il-PIR 99,9 % tal-importazzjonijiet kollha mir-RPĊ lejn l-Unjoni tal-prodott ikkonċernat saru għall-ipproċessar attiv, u l-0,1 % li fadal għaċ-ċirkolazzjoni hielsa. Ma kien hemm l-ebda importazzjoni għaċ-ċirkolazzjoni hielsa fl-2007 u fl-2008. Għall-kompletezza tad-dejta, l-importazzjonijiet għaċ-ċirkolazzjoni hielsa tqiesu fil-volum tal-importazzjoni totali, madankollu, analiżi dettaljata tal-iżvilupp tal-prezzijiet ta' dawn l-importazzjonijiet tqieset bhala wahda irrilevanti minhabba l-volumi negligibbli involuti.
- (34) Il-volum tal-importazzjoni mir-RPĊ taht l-IPR u ċ-ċirkolazzjoni hielsa naqsu b'67 % mill-2007 sal-PIR, u dan kien jikkoinċidi man-nuqqas fil-konsum fis-suq tal-Unjoni b'24 % kif imsemmi fil-premessa (45) hawn taht. Il-furfuraldeid Ċiniż importat taht l-IPR kien ipproċessat b'mod ulterjuri f'alkohol furfuraliku li mbagħad ġie esportat. Ma hemm l-ebda informazzjoni disponibbli dwar kif l-import-

tazzjonijiet għaċ-ċirkolazzjoni hielsa ntużaw fl-Unjoni, madankollu, wiehed jista' jassumi b'mod raġonevoli li, jekk il-miżuri jiġu revokati, mill-inqas parti mill-importazzjonijiet attwali taht l-IPR jistgħu jiġu importati għaċ-ċirkolazzjoni hielsa bhala tali jew bhala l-prodott downstream finali (alkohol furfuraliku) mibjugħ fis-suq tal-Unjoni.

- (35) Il-prezz tal-esportazzjonijiet Ċiniżi varja bejn is-swieq fil-perijodu mill-2007 sal-PIR. Filwaqt li kien hemm tnaqqis kbir fil-prezz tal-esportazzjoni lejn l-Unjoni (bi 11 %) f'dan il-perijodu, is-swieq tal-esportazzjoni l-ohra kellhom zieda ta' madwar 10 %. Madankollu huwa ċar li l-prezzijiet għas-suq tal-Istati Uniti matul il-PIR kienu bejn wiehed u iehor fl-istess livell bhal tal-Unjoni, filwaqt li, skont l-istatistiki tal-esportazzjoni Ċiniżi, l-esportazzjonijiet lejn swieq ohra kienu aktar għaljin b'19 % għal kull tunnellata. Meta wiehed iqis li l-prodott ikkonċernat huwa omoġenu hafna, differenzi fil-prezz bhal dawn jistgħu biss jiġu spjegati permezz tal-istrategija tal-ipprezzar intenzjonat tal-esportaturi Ċiniżi li jiksbu prezzijiet u profitti aktar għoljin fi swieq b'inqas kompetizzjoni milli fi swieq bhall-Unjoni u l-Istati Uniti fejn hemm prezzijiet aktar baxxi. Meta wiehed iqis li l-esportazzjonijiet lejn l-Unjoni u l-Istati Uniti kienu jirrapprezentaw 46 % tal-esportazzjonijiet Ċiniżi totali, dan iwassal għall-konklużjoni li din id-diskriminazzjoni tal-prezzijiet tista' tinzamm, jekk jiskadu d-dazji, sabieix jitkomplu d-dumping mill-inqas fis-suq tal-Unjoni.

4.2. Kapaċità żejda tal-esportaturi

- (36) Minhabba li hemm biss fit informazzjoni pubblika li hija disponibbli dwar l-industrija Ċiniża tal-furfuraldeid, il-konklużjonijiet li ġejjin jiddependu l-aktar fuq l-informazzjoni li hemm fit-talba għal reviżjoni.
- (37) Skont it-talba għar-reviżjoni ta' skadenza, il-produtturi Ċiniża tal-furfuraldeid qed tiżdied b'pass stabbli mill-1999, u fl-2009 il-volum tal-produzzjoni lahaq madwar 320 000 tunnellata. Ir-rata ta' kapaċità ta' użu Ċiniża jingħad li tilhaq madwar 94 % li jfisser li hemm kapaċità wieqfa ta' madwar 20 000 tunnellata fis-sena fir-RPĊ, jiġifieri nofs il-konsum totali fl-Unjoni. Jingħad li attwalment joperaw aktar minn 200 impjant ta' produzzjoni ta' furfuraldeid fir-RPĊ li aktar u aktar minnhom iwettqu attivitajiet ta' esportazzjoni.
- (38) Abbażi ta' dan ta' hawn fuq, wiehed jista' jikkonkludi li, jekk il-miżuri jiġu revokati, wiehed jista' jistenna li l-esportazzjonijiet tal-prodott ikkonċernat mir-RPĊ jidhlu fis-suq tal-Unjoni l-barra mill-IPR fi kwantitajiet sinifikanti u hemm probabbiltà kbira li dawn ikomplu jkunu l-oġġett ta' dumping.

5. Il-konkluzjoni dwar il-probabbiltà ta' ssoktar ta' dumping

- (39) Meta wiehed iqis il-kapaċità ta' produzzjoni kbira disponibbli fir-RPĊ, il-hila tal-produtturi Ċiniżi li jżidu malajr il-volumi tal-produzzjoni u jmexxuhom għall-esportazzjoni, kif ukoll l-ipprezzar ta' dawn l-esportazzjonijiet, huwa raġonevoli li wiehed jassumi li revoka tal-miżuri tirriżulta f'bidu mill-ġdid tal-esportazzjonijiet mir-RPĊ lejn l-Unjoni 'l barra mill-IPR.
- (40) Il-prezzijiet attwali tal-esportazzjoni taht l-IPR ma għandhomx id-dazju anti-dumping. Għalhekk jitqies li tali prezzijiet huma indikattivi fir-rigward tal-livelli futuri tal-prezzijiet, jekk jiġu revokati l-miżuri. F'dan ir-rigward, instab li l-prezzijiet tal-esportazzjoni Ċiniżi taht l-IPR kienu l-oġġett ta' dumping u kienu aktar baxxi mill-prezzijiet tal-produtturi tal-Unjoni bi 11 % fil-PIR, kif imsemmi fil-premessa (69) hawn taht.
- (41) Fid-dawl tas-sejbiet deskritti hawn fuq, jista' jiġi konkluz li l-esportazzjonijiet mir-RPĊ għadhom l-oġġett ta' dumping u li hemm probabbiltà ta' ssoktar ta' dumping fis-suq tal-Unjoni fil-każ li jiskadu l-miżuri anti-dumping attwali.

D. ID-DEFINIZZJONI TAL-INDUSTRIJA TAL-UNJONI

- (42) L-IU tikkonsisti minn żewġ kumpaniji: Lenzing AG (l-Awstrija) u Tanin Sevnica kemična industrija d.d. (is-Slovenja), li flimkien jirrapprezentaw 100 % tal-produzzjoni tal-Unjoni tal-prodott ikkonċernat fil-PIR. Iż-żewġ kumpaniji wieġbu għall-kwestjonarju u kkooperaw bis-sih fl-investigazzjoni. Abbażi ta' dan, iż-żewġ produtturi tal-Unjoni jikkostitwixxu l-industrija tal-Unjoni fi hdan it-tifsira tal-Artikolu 4(1) u l-Artikolu 5(4) tar-Regolament bażiku. Għal raġunijiet ta' kunfidenzjalità d-dejta li tikkonċerna il-prestazzjoni tal-IU tinghata biss f'forma ta' indici.
- (43) Meta mqabbla mal-investigazzjoni oriġinali, l-IU nbidlet: b'mod sinifikanti Furfural Español S.A., issa msejha attwalment Nutrafur, il-produttur Spanjol li ressaq l-ilment oriġinali fl-1994, waqqaf il-produzzjoni tiegħu f'Ottubru 2008. Nutrafur, li jsostni din it-talba għal revizzjoni, ma kkooperax f'dan il-proċediment. Madankollu, Nutrafur għadu attiv fis-suq, bhala negozjant li jixtri l-prodott ikkonċernat mill-kompetituri preċedenti tiegħu tal-Unjoni. Iċ-ċifri tal-produzzjoni ta' Nutrafur fl-2007 u fl-2008 msemija fit-talba ġew inklużi fil-konsum fis-suq tal-Unjoni.

E. IS-SITWAZZJONI FIS-SUQ TAL-UNJONI

1. Il-konsum fis-suq tal-Unjoni

- (44) Il-konsum tal-Unjoni ta' furfuraldeid ġie stabbilit fuq il-bażi tal-volumi tal-bejgħ tal-IU fis-suq tal-Unjoni (inkluż il-bejgħ ta' Nutrafur waqt li kien għadu qed jipproduċi l-furfuraldeid) flimkien mal-importazzjonijiet taht l-IPR mir-RPĊ u l-importazzjonijiet minn pajjiżi terzi oħra

fiċ-ċirkolazzjoni hielsa, msejsa fuq dejta verifikata tal-importatur International Furan Chemicals BV ("IFC") u l-Eurostat. Billi l-Eurostat ma jżvelax l-informazzjoni shiha minhabba raġunijiet ta' kunfidenzjalità, id-dejta tal-Eurostat intużat biss għall-importazzjonijiet minn pajjiżi terzi oħra għajr ir-RPĊ u r-Repubblika Dominikana, billi l-IFC huwa l-uniku importatur ta' furfuraldeid minn dawn is-sorsi.

- (45) Fuq din il-bażi, matul il-perijodu kkunsidrat, il-konsum tal-Unjoni naqas b'24 %, minn 48 534 tunnellata fl-2007 għal 36 725 tunnellata, matul il-PIR.

Tabella 1 – Il-konsum tal-Unjoni

Sena	2007	2008	2009	PIR
Tunnellati	48 534	45 738	38 175	36 725
Indici (2007=100)	100	94	79	76
Xejra S/S		- 6	- 15	- 3

Sors: it-tweġibiet verifikati għall-kwestjonarji tal-IU u l-IFC, it-talba għal revizzjoni u l-Eurostat

2. L-importazzjonijiet mir-RPĊ

2.1. Il-volum, is-sehem fis-suq u l-prezzijiet

- (46) Skont l-istatistiki tal-esportazzjoni Ċiniżi, matul il-PIR kien hemm kwantitajiet insinifikanti biss (2,5 tunnellata) ta' importazzjonijiet Ċiniżi għaċ-ċirkolazzjoni hielsa, u l-maġġoranza ta' dawn l-importazzjonijiet Ċiniżi saru taht l-IPR. Il-volum tal-IPR Ċiniż naqas minn 8 264 tunnellata fl-2007 għal 2 749 tunnellata fil-PIR, jiġifieri b'67 %. Fl-2008 l-importazzjonijiet Ċiniżi tal-IPR laħqu quċċata ta' madwar 10 000 tunnellata li naqset fis-snin sussegwenti. Tul il-perijodu kkunsidrat is-sehem fis-suq Ċiniż għall-IPR naqas minn 17 % għal 8 %, jiġifieri b'9 punti percentwali.
- (47) Il-prezz tal-IPR Ċiniż naqas bi 12 % minn EUR 774 fl-2007 għal EUR 685 fil-PIR.

Tabella 2 – L-importazzjonijiet mir-RPĊ

Sena	2007	2008	2009	PIR
Tunnellati	8 264	10 002	5 159	2 749
Indici (2007=100)	100	121	62	33
Xejra S/S		21	- 59	- 29
Sehem fis-suq	17 %	22 %	14 %	7 %
Prezz, EUR/tunnellata	774	1 014	690	685
Indici (2007=100)	100	131	89	88

Sors: It-tweġiba verifikata għall-kwestjonarju tal-IFC

3. Volumi u prezzijiet tal-importazzjonijiet minn pajjiżi terzi oħra

- (48) Ta' min jinnota li, bhal fl-investigazzjoni originali, l-importazzjonijiet mir-Repubblika Dominikana kienu kollha kemm huma kunsinni bil-baħar minn kumpanija possedenti lis-sussidjarja Ewropea tagħha sabiex tipproduċi l-alkohol furfuriliku. Għalhekk, il-prezzijiet użati f'dawn it-tranzazzjonijiet huma prezzijiet ta' trasferiment bejn kumpaniji relatati u ma jirriflettux il-prezzijiet reali tas-suq. Skont il-Eurostat, il-volumi tal-importazzjoni tal-furfuraldeid fl-Unjoni minn pajjiżi oħra għajr dak tar-RPĊ, flimkien mal-prezzijiet medji tagħhom, żviluppaw kif ġej:

Tabella 3 – Importazzjonijiet fl-Unjoni mir-Repubblika Dominikana

Sena	2007	2008	2009	PIR
Tunnellati	32 003	27 662	24 996	25 959
Indiċi (2007=100)	100	86	78	81
Xejra S/S		- 14	- 8	3
Sehem fis-suq	66 %	60 %	65 %	71 %
Prezz, EUR/tunnellata	809	982	582	670
Indiċi (2007=100)	100	121	72	83

Tabella 4 – Importazzjonijiet fl-Unjoni minn pajjiżi terzi oħra

Sena	2007	2008	2009	PIR
Tunnellati	1 687	1 583	1 226	1 158
Indiċi (2007=100)	100	94	73	69
Xejra S/S		- 6	- 21	- 4
Sehem fis-suq	3 %	3 %	3 %	3 %
Prezz, EUR/tunnellata	800	997	632	621
Indiċi (2007=100)	100	125	79	78

- (49) Matul il-perijodu kkunsidrat il-volumi tal-importazzjoni ta' furfuraldeid mir-Repubblika Dominikana u mill-pajjiżi terzi l-oħra kollha naqsu b'mod sinifikanti b'19 % u 31 % rispettivament. Madankollu t-tnaqqis fl-importazzjonijiet mir-Repubblika Dominikana xorta ppermetta li jkun hemm zieda tas-sehem fis-suq minn 66 % sa 71 %. Madankollu dawn l-importazzjonijiet kollha ġew inkorporati fil-produzzjoni tal-alkohol furfuriliku mis-sussidjarja Ewropea tal-produttur fir-Repubblika Dominikana. Għalhekk, il-prezzijiet ta' dawn it-tranzazzjonijiet huma prezzijiet ta' trasferiment bejn kumpaniji relatati u jistgħu ma jirriflettux il-prezzijiet reali tas-suq.

3.1. Volumi u prezzijiet tal-esportazzjonijiet mir-RPĊ lejn pajjiżi terzi oħra

- (50) Matul il-perijodu kkunsidrat il-volumi tal-esportazzjonijiet żdiedu b'105 % (ekwivalenti għal madwar 9 % tal-bejgħ

totali tal-Unjoni fil-PIR). Huwa nnutat li l-bejgħ tal-esportazzjoni mill-IU lejn pajjiżi terzi oħra saru bi prezzijiet baxxi matul il-PIR. Dan jista' jiġi spjegat permezz tal-kompetizzjoni fi kwantitajiet kbar bi prezzijiet baxxi bil-furfuraldeid Ċiniż f'pajjiżi terzi oħra.

Tabella 5 – Volumi u prezzijiet tal-esportazzjonijiet tal-IU lejn pajjiżi terzi oħra

Sena	2007	2008	2009	PIR
Kwantitajiet - Indiċi (2007=100)	100	136	211	205
Xejra S/S		36	75	- 6
Prezzijiet - Indiċi (2007=100)	100	114	88	82
Xejra S/S		14	- 26	- 6

4. Il-qagħda ekonomika tal-IU

- (51) Il-qagħda ekonomika tal-IU, jiġifieri ż-żewġ kumpaniji Lenzing u Tanin hija analizzata hawn taht.

4.1. Produzzjoni

- (52) Il-produzzjoni totali tal-IU tal-prodott ikkonċernat żdiedet b'14 % matul il-perijodu kkunsidrat.

Tabella 6 – Produzzjoni tal-Unjoni

Sena	2007	2008	2009	PIR
Indiċi (2007=100)	100	109	114	114
Xejra S/S		9	5	0

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.2. Il-kapaċità ta' produzzjoni u l-użu tal-kapaċità

- (53) Il-kapaċità ta' produzzjoni totali tal-IU baqgħet l-istess matul il-perijodu kkunsidrat. L-użu tal-kapaċità tal-IU żdied bi 12-il punt perċentwali minn 85 % sa 97 % u dan ifisser li l-produzzjoni kienet kważi lahqet il-kapaċità shiħa tagħha.

Tabella 7 – Il-kapaċità tal-Unjoni

Sena	2007	2008	2009	PIR
Indiċi (2007=100)	100	100	100	100
L-użu tal-kapaċità	85 %	92 %	96 %	97 %

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.3. Il-livell tal-*hażniet*

- (54) It-tabella ta' hawn taht turi li l-livell tal-*hażniet* tal-IU *ż*died b'26 % matul il-perijodu kkunsidrat. Iż-*ż*ieda fil-*hażniet* kienet partikolarment sinifikanti bejn l-2007 u l-2008, meta l-*hażniet* *ż*diedu b'193 %.

Tabella 8 – *Hażniet*

Sena	2007	2008	2009	PIR
Indiċi (2007=100)	100	293	165	126
Xejra S/S		193	- 128	- 40

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.4. Il-volum tal-*bejgħ* u s-*sehem fis-suq*

- (55) Il-volum tal-*bejgħ* tal-IU lil klijenti li mhumiex relatati fis-suq tal-Unjoni *ż*died bi 13 % matul il-PIR. Wara *ż*-*ż*ieda fil-*bejgħ*, is-*sehem fis-suq* tal-IU *ż*died b'ħames punti perċentwali matul il-perijodu kkunsidrat.

Tabella 9 – Il-volum tal-*bejgħ* u s-*sehem fis-suq* tal-Unjoni

Sena	2007	2008	2009	PIR
Indiċi (2007=100)	100	100	112	113
Medda tas- <i>sehem fis-suq</i>	10-20 %	10-20 %	14-24 %	15-25 %

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.5. Il-*prezzijiet medji tal-bejgħ*

- (56) Matul il-perijodu kkunsidrat il-*prezzijiet medji tal-bejgħ* applikati mill-IU fis-suq tal-Unjoni naqsu b'1 %. Fl-2008 il-*prezz* medju tal-*bejgħ* laħaq quċċata b'*ż*ieda ta' 11 %, iżda mbagħad naqas b'rata mgħagġla fis-sena ta' wara. It-tnaqqis *ż*għir fil-*prezzijiet tal-bejgħ* għandu jitqies fid-dawl taż-*ż*ieda ta' 5 % fil-kost tal-*produzzjoni* għal kull unità, li l-IU ma setgħetx tqis.

Tabella 10 – *Prezz medju tal-bejgħ* fl-Unjoni

Sena	2007	2008	2009	PIR
Indiċi (2007=100)	100	111	98	99
Xejra S/S		11	- 13	1

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.6. Il-kost medju tal-*produzzjoni*

- (57) Matul il-perijodu kkunsidrat il-kost medju tal-*produzzjoni* (KOP) *ż*died b'5 % l-aktar minħabba *ż*-*ż*ieda fl-impjegi u għalhekk *ż*ieda fil-kost totali tax-xogħol.

Tabella 11 – Il-kost medju tal-*produzzjoni*

Sena	2007	2008	2009	PIR
Indiċi (2007=100)	100	105	105	105
Xejra S/S		5	0	0

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.7. Il-*profitabbiltà* u l-*fluss ta' flus kontanti*

- (58) Il-*profitti magħmula* mill-IU naqsu b'mod sinifikanti matul il-perijodu kkunsidrat flimkien mal-*fluss tal-flus kontanti*, li naqas b'56 %. Dan kien minħabba pressjoni fuq il-*prezzijiet tal-bejgħ*, minkejja *ż*-*ż*ieda kemm fil-*produzzjoni* kif ukoll fil-*bejgħ*.

Tabella 12 – Il-*profitabbiltà* u l-*fluss ta' flus kontanti*

Sena	2007	2008	2009	PIR
Indiċi tal- <i>Profitabbiltà</i> (2007=100)	100	175	- 7	- 4
Xejra S/S		75	- 182	3
Fluss ta' Fluss Kontanti - Indiċi (2007=100)	100	144	49	44
Xejra S/S		44	- 95	- 5

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.8. L-*investimenti*, ir-*redditu fuq l-investimenti* u l-*hila li jżied il-kapital*

- (59) L-*investimenti* naqsu b'95 % bejn l-2007 u l-PIR. Ir-*redditu fuq l-investimenti*, espress b'ħala qligħ/telf tal-prodott ikkonċernat b'rabta mal-valur nett tal-kontabbiltà tal-*investimenti*, naqas b'mod konsiderevoli matul il-perijodu kkunsidrat, u b'dan segwa x-xejra tal-*investimenti*. B'ħala riżultat tad-deterjorament fil-*profitabbiltà* u l-*flussi ta' flus kontanti*, il-*hila tal-applikanti* li jżidu l-*kapital marret* għall-*agħar* b'mod sinifikanti matul il-perijodu kkunsidrat. Din il-qagħda li sejra għall-*agħar tidher* b'mod ċar ukoll fl-*investimenti tal-applikanti*, li waqghu b'95 % matul il-perijodu kkunsidrat.

Tabella 13 – L-*investimenti* u r-*redditu fuq l-investimenti*

Sena	2007	2008	2009	PIR
Indiċi tal- <i>investimenti</i> (2007=100)	100	61	2	5
Xejra S/S		- 39	- 59	3
Indiċi tar- <i>redditu fuq l-investimenti</i> (2007=100)	100	196	- 7	- 4
Xejra S/S		96	- 203	3

Sors: It-tweġibiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.9. L-impjegji u l-produttività

- (60) Il-livell tal-impjegji ġewwa l-IU matul il-perijodu kkunsidrat żdied bi 8 %. Il-produttività, mkejla bhala l-produzzjoni ftunnellati għal kull persuna impjegata, żdiedet b'6 %. Madankollu, il-kosti totali tax-xogħol żdiedu b'16 % matul il-perijodu kkunsidrat.

Tabella 14 – L-impjegji u l-produttività

Sena	2007	2008	2009	PIR
Impjegji - Indici	100	109	109	108
Produttività (tunnellati/impjegati) - Indici	100	100	105	106
Kosti tax-xogħol - Indici	100	114	115	116

Sors: It-tweġbiet verifikati għall-kwestjonarji tal-produtturi tal-Unjoni

4.10. Id-daqs tal-marġni tad-dumping

- (61) Meta jitqies il-volum, is-sehem fis-suq u l-prezzijiet tal-importazzjonijiet li huma l-oġġett ta' dumping mir-RPĊ, ma jistax jitqies li l-impatt fuq l-IU tal-marġnijiet effettivi tad-dumping huwa wiehed neglġibbli.

4.11. L-irkupru mill-effetti ta' dumping

- (62) Kif muri mill-evoluzzjoni pożittiva tal-biċċa l-kbira tal-indikaturi elenkati hawn fuq, matul il-perijodu kkunsidrat il-qagħda ekonomika tal-IU rkuprat b'mod parzjali mill-effett ta' hsara tal-importazzjonijiet li huma l-oġġett ta' dumping li joriginaw mir-RPĊ.

4.12. Tkabbir

- (63) Filwaqt li l-konsum tal-Unjoni naqas b'24 % matul il-perijodu kkunsidrat, il-popolazzjoni tal-IU, il-volum tal-bejgħ u s-sehem fis-suq żdiedu matul l-istess perijodu. Fl-istess waqt, il-volum u s-sehem fis-suq tal-importazzjonijiet mir-RPĊ naqsu. Madankollu, l-IU tista' tibbenefika mill-miżuri sa ċertu limitu billi l-prezzjoni Ċiniża fuq il-prezzijiet tal-bejgħ ma hallithomx ikollhom qligħ jew jilhq u l-mira tal-qligħ tagħhom.

5. Il-konkluzjoni dwar il-qagħda ekonomika tal-industrija tal-Unjoni

- (64) Il-furfuraldeid mir-Repubblika Dominikana mhux disponibbli fis-suq hieles tal-Unjoni. Għalhekk, ma nstabt l-ebda indikazzjoni li dawn l-importazzjonijiet setgħu kkontribwew għas-sitwazzjoni prekarja fl-IU. Fir-rigward tal-importazzjonijiet ta' pajjiżi terzi ohra, il-volumi tagħhom naqsu b'mod sostanzjali għal-livell tali li, anke kieku kellhom isiru bi prezzijiet baxxi hafna, l-effett tagħhom ma jistax jitqies bhala wiehed sinifikanti.

- (65) Il-miżuri kontra r-RPĊ kellhom impatt pożittiv fuq il-qagħda ekonomika tal-IU, billi l-biċċa l-kbira tal-indikaturi tal-hsara wrew żvilupp pożittiv: il-produzzjoni, il-volum tal-bejgħ u l-valur tal-bejgħ żdiedu. Minkejja il-konsum li dejjem qed jonqos, l-IU irnexxilha żżid is-sehem fis-suq tagħha. Il-profitabbiltà, madankollu, naqset b'mod sostanzjali matul il-PIR. L-IU ma kinitx f'pożizzjoni li tikseb il-mira tal-qligħ, stabbilita fl-investigazzjoni originali għal 5 % biex jiġi żgurat l-izvilupp tagħha. F'dak is-sens, huwa konkluż li l-IU garrbet hsara materjali fi hdan it-tifsira tal-Artikolu 3(5) tar-Regolament bażiku u li l-qagħda finanzjarja tagħha għada vulnerabbli.

F. IL-PROBABBLITÀ TA' RIKORRENZA TAL-HSARA

- (66) Il-premessi (39) u (40) hawn fuq ikkonkludew li l-iskadenza tal-miżuri x'aktarx twassal għal zieda sinifikanti ta' esportazzjonijiet li huma l-oġġett ta' dumping mir-RPĊ lejn l-Unjoni.

- (67) Kif imsemmi hawn fuq, il-produtturi Ċiniżi għandhom il-potenzjal li jmexxu mill-ġdid volumi kbar ta' esportazzjoni lejn is-suq tal-Unjoni jekk il-miżuri jiġu revokati. Skont it-talba għal revizzjoni, il-kapaċità ta' produzzjoni Ċiniża laqgħet 320 000 tunnellata fl-2009 b'kapaċità żejda ta' mill-inqas 20 000 tunnellata. Barra minn hekk, jidher li s-swieg ta' esportazzjoni l-ohra, bħall-Ġappun, it-Tajlandja u l-Istati Uniti, ma setgħux jassorbu dik il-kapaċità żejda, li għalhekk wisq probabbli titmexxa lejn is-suq tal-Unjoni.

- (68) Fir-rigward tal-prezzijiet, l-istatistiki tal-esportazzjoni Ċiniżi juru li l-prezz tal-prodott ikkonċernat għall-Istati Uniti kien simili għal dak tal-esportazzjonijiet lejn l-Unjoni taht l-IPR. Għal swieg ta' esportazzjoni ohra, il-prezzijiet Ċiniżi kienu oghla.

- (69) Madankollu, billi l-prezzijiet Ċiniżi kienu aktar baxxi minn dawk tal-IU bi 11 %, jekk il-miżuri jithallew jiskadu, x'aktarx li l-esportaturi Ċiniżi jkomplu l-prattiki tagħhom sabiex jiggwadanjaw mill-ġdid is-sehem fis-suq mitluf. Tali mgħiba flimkien mal-kapaċità tagħhom li jagħtu kwantitajiet sinifikanti tal-prodott ikkonċernat lis-suq tal-Unjoni tista' twassal għal impatt negattiv hafna fuq l-IU u b'mod partikolari fuq il-profitabbiltà tagħha.

- (70) Abbażi ta' dan ta' hawn fuq, huwa konkluż li revoka tal-miżuri x'aktarx twassal għal rikorrenza tal-hsara li tirriżulta mill-importazzjonijiet li huma oġġetti ta' dumping mir-RPĊ.

G. L-INTERESS TAL-UNJONI

1. Rimarka preliminari

- (71) Skont l-Artikolu 21 tar-Regolament bażiku, ġie eżaminat jekk iż-żamma tal-miżuri anti-dumping eżistenti tmurx kontra l-interess tal-Unjoni bhala entità.

(72) Id-determinazzjoni tal-interess tal-Unjoni kienet imsejja fuq valutazzjoni tal-interessi varji kollha involuti, jiġifieri dawk tal-IU, tal-importaturi/negozjanti kif ukoll tal-utenti u tal-fornituri tal-prodott ikkonċernat.

(73) Fl-investigazzjonijiet preċedenti, l-adozzjoni tal-miżuri kienet meqjusa li ma tmurx kontra l-interess tal-Unjoni. Barra minn hekk, din l-investigazzjoni hija revizzjoni ta' skadenza, u b'hekk tanalizza sitwazzjoni fejn il-miżuri ta' anti-dumping qegħdin fis-sehh.

(74) Abbażi ta' dan kien mistharreġ jekk, minkejja l-konkluzjoni dwar il-probabbiltà tal-issoktar ta' dumping u r-rikorrenza ta' hsara, kienx hemm raġunijiet b'saħħithom li jwasslu għall-konkluzjoni li mhijiex fl-interess tal-Unjoni li jinżammu l-miżuri f'dan il-każ partikolari.

2. L-interess tal-IU

(75) L-IU wriet li hija industrija vijabbli, kapaċi tadatta għal kundizzjonijiet fis-suq li jinbidlu. Dan kien ikkonfermat b'mod partikolari permezz tal-iżvilupp pożittiv tal-produzzjoni u tal-bejgħ f'kundest ta' konsum dejjem jonqos fl-Unjoni. Madankollu, minhabba l-pressjoni kbira fuq il-prezzijiet tal-bejgħ, il-profitabbiltà ma setgħetx issewgi l-istess xejra pożittiva.

(76) Minhabba l-kapaċità żejda eżistenti għall-furfuraldeid fir-RPĊ, flimkien mal-fatt li swieq ta' esportazzjoni oħra (bħall-Ġappun, it-Tajlandja u l-Istati Uniti) ma jstgħux jassorbu dik il-kapaċità żejda, jekk il-miżuri jithallew jiskadu, l-esportaturi Ċiniżi x'aktarx li jippruvaw jiggwadanjaw mill-ġdid is-sehem fis-suq tagħhom mitluf billi jkomplu l-imġiba ta' dumping tagħhom fis-suq tal-Unjoni.

(77) Għalhekk, minghajr l-issoktar ta' miżuri anti-dumping, il-qagħda tal-IU x'aktarx li tiddeterjora hafna minhabba esportazzjonijiet Ċiniżi bi prezz baxx u li huma l-oġġett ta' dumping kif spjegat fil-premessi (65) sa (68).

3. L-interess tal-importaturi

(78) Importatur wiehed biss fl-Unjoni kkoopera fil-proċediment: IFC, kumpanija li tinsab fil-Pajjiżi l-Baxxi u li hi proprjetà ta' produttur tal-furfuraldeid fir-Repubblika Dominikana. L-IFC hija l-uniku importatur attiv tal-furfuraldeid fl-Unjoni, numru żgħir ta' kumpaniji oħra jimpurtaw il-prodott ikkonċernat okkażjonalment biss. L-IFC hija l-attur ewlieni fis-suq tal-Unjoni tal-furfuraldeid (u tal-alkohol furfuriliku) billi tirrappreżenta madwar 80 % tal-konsum fl-Unjoni. L-IFC timporta mir-Repubblika Dominikana, mir-RPĊ taħt l-IPR u minn pajjiżi terzi oħra. Barra minn hekk, l-IFC hija l-klijent ewlieni tal-IU li tixtri madwar 32 % tal-bejgħ totali tagħhom. Il-furfural-

deid mixtri jitkompla jiġi pproċessat f'alkohol furfuriliku minn TFC, il-kumpanija relatata tal-IFC f'Geel, il-Belġju.

(79) Dan l-importatur huwa pjuttost newtrali fir-rigward tal-proċediment billi minn naħa jixtieq ikollu aċċess għall-furfuraldeid Ċiniż minghajr restrizzjonijiet u minghajr il-piż li jkollu jissodisfa r-rekwiżiti tal-klijenti għall-IPR, u min-naħa l-oħra jixtieq li l-IU tinżamm sabiex ikun jista' jkollu provvista tal-prodott ikkonċernat malajr. Barra minn hekk, l-issoktar tal-miżuri jelimina l-kompetizzjoni mal-importazzjonijiet mill-produttur possedenti fir-Repubblika Dominikana u jikkonsolida ż-żamma tal-grupp kemm fuq is-suq tal-furfuraldeid kif ukoll fuq dak tal-alkohol furfuriliku (inkluż il-PIR) fl-Unjoni.

4. L-interess tal-utenti

(80) Il-Kummissjoni baġtet kwestjonarji lil 27 utent industrijali tal-furfuraldeid. Tliet utenti biss ikkooperaw fil-proċediment iżda dawn ma jiedux il-provvista tagħhom ta' furfuraldeid mir-RPĊ imma jixtruh direttament mill-IU. Għal dawn l-utenti l-importanza tal-furfuraldeid fin-negozju tagħhom, l-irfinar taż-żejt jew l-industrija taż-żjut lubrifikanti, hija negligibbli. Għalhekk ma jhossu-homx partikolarment affettwati mill-miżuri anti-dumping.

5. Il-konkluzjoni dwar l-interess tal-Unjoni

(81) Meta jitqies dan ta' hawn fuq, huwa konkluz li ma hemmx raġunijiet b'saħħithom kontra ż-żamma tal-miżuri anti-dumping attwali.

H. MIŻURI ANTI-DUMPING

(82) Il-partijiet kollha ġew mgħarrfa dwar il-fatti essenzjali u l-kunsiderazzjonijiet li abbażi tagħhom kien mahsub li jiġi rakkomandat li jinżammu l-miżuri eżistenti. Inghataw ukoll perijodu li fih setgħu jagħmlu r-rappreżentazzjonijiet wara li sar dan l-iżvelar. Il-kummenti rilevanti mressqa ġew analizzati iżda ma wasslux għat-tibdil tal-fatti u l-kunsiderazzjonijiet essenzjali li abbażi tagħhom ġie deċiż li jinżammu l-miżuri anti-dumping.

(83) Minn dan ta' hawn fuq isegwi li, kif previst fl-Artikolu 11(2) tar-Regolament bażiku, il-miżuri anti-dumping imposti bir-Regolament (KE) Nru 639/2005 fuq l-importazzjonijiet tal-furfuraldeid li joriginaw mir-RPĊ, għandhom jinżammu. Dawn il-miżuri jikkonsistu f'dazju speċifiku.

(84) Madankollu, billi dan id-dazju speċifiku ġie stabbilit fuq il-baži tas-sejbiet tal-investigazzjoni originali fl-1995 u qatt ma ġie rivedut, tqis xieraq li jiġi vvalutat jekk il-livell tad-dazju għadux rilevanti. F'dan ir-rigward, il-Kummissjoni ser tikkunsidra li tibda *ex officio* revizzjoni interim skont l-Artikolu 11(3) tar-Regolament bażiku,

ADOTTAT DAN IR-REGOLAMENT:

Artikolu 1

1. Dazju anti-dumping definittiv huwa b'dan impost fuq l-importazzjonijiet ta' 2-furaldeid (magħruf ukoll bhala furfuraldeid jew furfural) li attwalment jaqa' taħt il-kodiċi NM 2932 12 00 li joriġinaw mir-Repubblika Popolari taċ-Ċina.

2. L-ammont ta' dazju applikabbli huwa ta' EUR 352 għal kull tunnellata.

3. F'każijiet fejn l-oġġetti ġarrbu ħsara qabel ma dahlu fiċ-ċirkolazzjoni hielsa u, għalhekk, il-prezz li thallas realment jew li għandu jithallas huwa allokat għad-determinazzjoni tal-valur doganali skont l-Artikolu 145 tar-Regolament tal-Kummissjoni

(KEE) Nru 2454/93 tat-2 ta' Lulju 1993 li jiffissa d-dispożizzjonijiet għall-implementazzjoni tar-Regolament tal-Kunsill (KEE) Nru 2913/92 li jstabbilixxi il-Kodiċi Doganali Komunitarju ⁽¹⁾, l-ammont tad-dazju anti-dumping, maħdum abbażi tal-paragrafu 2 ta' dan l-Artikolu, għandu jitnaqqas bi perċentwal li jikkorrispondi mal-allokazzjoni tal-prezz imhallas realment jew li għandu jithallas.

4. Sakemm ma jiġix speċifikat mod ieħor, għandhom japplikaw id-dispożizzjonijiet fis-seħħ li jikkonċernaw id-dazji doganali.

Artikolu 2

Dan ir-Regolament għandu jidhol fis-seħħ fil-jum ta' wara dak tal-pubblikazzjoni tiegħu f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*.

Dan ir-Regolament għandu jorbot fl-intier tiegħu u jkun direttament applikabbli fl-Istati Membri kollha.

Magħmul fi Brussell, l-4 ta' Mejju 2011.

Għall-Kunsill
Il-President
MARTONYI J.

⁽¹⁾ ĠU L 253, 11.10.1993, p. 1.

REGOLAMENT TAL-KUMMISSJONI (UE) Nru 454/2011

tal-5 ta' Mejju 2011

dwar l-ispeċifikazzjoni teknika għall-interoperabbiltà relatata mas-subsistema "applikazzjonijiet telematiċi għal servizzi tal-passiġġieri" tas-sistema ferrovjarja trans-Ewropea

(Test b'relevanza għaż-ŻEE)

IL-KUMMISSJONI EWROPEA,

Wara li kkunsidrat it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea,

Wara li kkunsidrat id-Direttiva 2008/57/KE tal-Parlament Ewropew u tal-Kunsill tas-17 ta' Ġunju 2008 dwar l-interoperabbiltà tas-sistema ferrovjarja fil-Komunità ⁽¹⁾, u b'mod partikolari l-Artikolu 6(1) tagħha,

Billi:

- (1) Skont l-Artikolu 2(e) tad-Direttiva 2008/57/KE, is-sistema ferrovjarja hija suddiviża f'subsistemi strutturali u funzjonali. Kull waħda mis-subsistemi għandha tiġi koperta minn speċifikazzjoni teknika għall-interoperabbiltà (TSI).
- (2) Permezz tad-Deċiżjoni C (2006) 124 finali tad-9 ta' Frar 2007, il-Kummissjoni tat mandat lill-Aġenzija Ferrovjarja Ewropea ("l-Aġenzija") biex tiżviluppa speċifikazzjonijiet tekniċi għall-interoperabbiltà (TSI) skont id-Direttiva 2001/16/KE tal-Parlament Ewropew u tal-Kunsill tad-19 ta' Marzu 2001 fuq l-interoperabbiltà tas-sistema ferrovjarja konvenzjonali trans-Ewropea ⁽²⁾. Skont it-termini ta' dak il-mandat, l-Aġenzija kienet mitluba tfassal l-abbozz tat-TSI relatat ma' applikazzjonijiet telematiċi għall-passiġġieri. L-Aġenzija pprezentat rakkomandazzjoni fil-31 ta' Mejju 2010. Din ir-rakkomandazzjoni għandha tkun ikkumplementata b'rakkomandazzjoni addizzjonali wara mandat mogħti mill-Kummissjoni li tkopri t-tariffi, il-biljetti u l-prenotazzjonijiet tal-vjaġġi domestiċi. Meta tfassal ir-rakkomandazzjoni tagħha, l-Aġenzija għandha tqis l-iżvilupp fuq livell nazzjonali u l-iżvilupp tekniku fil-qasam tal-proċeduri innovattivi ta' hruġ tal-biljetti u tal-intermodalità
- (3) L-ispeċifikazzjonijiet tekniċi għall-interoperabbiltà huma speċifikazzjonijiet adottati skont id-Direttiva 2008/57/KE. It-TSI li tidher fl-Anness tkopri s-subsistema relatata mal-applikazzjonijiet telematiċi għal servizzi tal-passiġġieri sabiex jilhqas r-reqwiziti essenzjali u biex tiżgura l-interoperabbiltà tas-sistema ferrovjarja.
- (4) L-interkonnessjoni effiċjenti tas-sistemi ta' informazzjoni u komunikazzjoni tad-diversi amministraturi tal-infrasuttura u impriži ferrovjarji hija meqjusa bħala importanti, b'mod partikolari għall-provvista ta' informazzjoni aġġornata u ta' servizzi ta' biljetti għall-passiġġieri.
- (5) L-għan ta' dan it-TSI huwa li jiddefinixxi l-proċeduri u l-interfaċċi bejn it-tipi kollha ta' atturi li jipprovdu informazzjoni u jorġu biljetti għall-passiġġieri permezz ta' teknoloġiji disponibbli b'mod wiesa'. Din l-ispeċifikazzjoni għandha tinkludi l-iskambju ta' informazzjoni firrigward ta' dawn l-aspetti: is-sistemi li jipprovdu informazzjoni lill-passiġġieri qabel u matul il-vjaġġ, is-sistemi ta' prenotazzjoni u hlas, l-immaniġġjar tal-bagalji, il-hruġ ta' biljetti permezz ta' uffiċċji tal-biljetti, il-magni tal-bejgħ tal-biljetti, bejgħ abbord il-ferroviji, it-telefown, l-Internet jew kull teknoloġija oħra ta' informazzjoni disponibbli b'mod wiesa', il-ġestjoni ta' konnessjonijiet bejn il-ferroviji u ma' modi oħra ta' trasport.
- (6) L-informazzjoni pprovduta lill-passiġġieri għandha tkun aċċessibbli skont ir-reqwiziti tad-Deċiżjoni tal-Kummissjoni 2008/164/KE ⁽³⁾ tal-21 ta' Diċembru 2007 dwar speċifikazzjoni teknika għall-interoperabbiltà rigward il-persuni b'mobbiltà mnaqqsa fis-sistema ferrovjarja trans-Ewropea konvenzjonali u ta' velocità għolja.
- (7) Id-dispożizzjonijiet ta' din it-TSI ma għandhomx jippre-gudikaw id-deċiżjonijiet li jittiehdu mill-Istati Membri skont l-Artikolu 2 tar-Regolament (KE) Nru 1371/2007 tal-Parlament Ewropew u tal-Kunsill ⁽⁴⁾.
- (8) Huma meħtieġa speċifikazzjonijiet dettaljati biex jiġi żgurat li dan ir-Regolament ikun applikabbli. Dawn l-ispeċifikazzjonijiet jiddefinixxu s-sistema ta' skambju ta' dejta abbażi ta' komponenti komuni u tal-interkonnessjoni tas-sistemi ta' informazzjoni u komunikazzjoni tal-atturi rilevanti. Barra minn hekk, huma meħtieġa wkoll id-deskrizzjoni tal-governanza għall-iżvilupp, l-użu u t-thaddim ta' din is-sistema, flimkien ma' pjan ġenerali għall-iżvilupp u l-użu ta' din is-sistema Dawn l-elementi għandhom jiġu prodotti waqt il-fażi inizjali ta' implimentazzjoni. Għaldaqstant, jeħtieġ li t-TSI tiġi emendata fi stadju aktar tard, sabiex jitqiesu dawn l-elementi (speċifikazzjonijiet dettaljati, governanza u pjan ġenerali).

⁽¹⁾ ĠU L 191, 18.7.2008, p. 1.⁽²⁾ ĠU L 110, 20.4.2001, p. 1.⁽³⁾ ĠU L 64, 7.3.2008, p. 72.⁽⁴⁾ ĠU L 315, 3.12.2007, p. 14.

- (9) Skont l-Artikolu 5(8) tad-Direttiva 2008/57/KE, id-dokumenti tekniċi ppubblikati mill-Aġenzija li huma msemmija f'dan ir-Regolament għandhom jitqiesu bhala annessi għat-TSI u għandhom isiru obbligatorji mill-mument li t-TSI tkun applikabbli.
- (10) Il-miżuri pprovduti f'dan ir-Regolament huma skont l-opinjoni tal-Kumitat stabbilit skont l-Artikolu 29(1) tad-Direttiva 2008/57/KE.

ADOTTAT DAN IR-REGOLAMENT:

Artikolu 1

1. L-Ispesifikazzjoni Teknika għall-Interoperabbiltà (minn hawn 'il quddiem, TSI) relatata mal-element applikazzjonijiet telematiċi għal servizzi tal-passiġġieri tas-subsistema applikazzjonijiet telematiċi tas-sistema ferrovjarja trans-Ewropea msemmija fl-Artikolu 6(1) tad-Direttiva 2008/57/KE hija stipulata fl-Anness I.

2. It-TSI għandha tkun applikabbli għall-element applikazzjonijiet għal servizzi tal-passiġġieri tas-subsistema applikazzjonijiet telematiċi kif definit fit-Taqsima 2.5 tal-Anness II għad-Direttiva 2008/57/KE.

3. Fir-rigward tas-servizzi ferrovjarji tal-passiġġieri minn jew lejn pajjiżi terzi, il-konformità mad-dispożizzjonijiet ta' din it-TSI hija suġġetta għad-disponibbiltà ta' informazzjoni minn atturi barra mill-UE, sakemm il-ftehimiet bilaterali ma jkunux jipprovdur skambju ta' informazzjoni li jkun kompatibbli mat-TSI.

Artikolu 2

Din it-TSI għandha tkun implimentata fi tliet fażijiet:

- l-ewwel fażi, li tistabbilixxi l-ispesifikazzjonijiet dettaljati fil-materja tat-teknoloġija tal-informazzjoni, il-governanza u l-pjan ġenerali (Fażi Nru 1),
- it-tieni fażi, li tikkonċerna l-iżvilupp tas-sistema ta' skambju ta' dejta (Fażi Nru 2) u,
- il-fażi finali, li tikkonċerna l-użu tas-sistema ta' skambju ta' dejta (Fażi Nru 3),

Artikolu 3

1. L-Aġenzija Ferrovjarja Ewropea għandha tippubblika d-dokumenti tekniċi elenkati fl-Anness III fuq is-sit elettroniku tagħha, u għandha żżommhom aġġornati. Għandha timplimenta proċess ta' ġestjoni ta' tibdil tad-dokumenti kif speċifikat

fit-Taqsima 7.5.2 tal-Anness I. Għandha tinforma lill-Kummissjoni dwar il-progress ta' dawn id-dokumenti. Il-Kummissjoni għandha tgharraf lill-Istati Membri permezz tal-Kumitat stabbilit skont l-Artikolu 29 tad-Direttiva 2008/57/KE.

2. L-Aġenzija Ferrovjarja Ewropea għandha tippubblika l-fajls ta' referenza msemmija fit-Taqsima 4.2.19 tal-Anness I fuq is-sit elettroniku tagħha, u għandha żżommhom aġġornati. Għal dawn il-fajls, għandha timplimenta proċess ta' ġestjoni ta' tibdil tad-dokumenti. Għandha tinforma lill-Kummissjoni dwar il-progress ta' dawn id-dokumenti. Il-Kummissjoni għandha tgharraf lill-Istati Membri permezz tal-Kumitat stabbilit skont l-Artikolu 29 tad-Direttiva 2008/57/KE.

3. Sal-31 ta' Marzu 2012, l-Aġenzija Ferrovjarja Ewropea għandha tippreżenta r-rakkomandazzjoni tagħha dwar il-punti li għandhom jiġu diskussi u li huma elenkati fl-Anness II għal dan ir-Regolament.

Artikolu 4

L-impriżi ferrovjarji, l-amministraturi tal-infrastruttura, l-amministraturi tal-istazzjon, il-bejjiegha tal-biljetti u l-Aġenzija għandhom jikkontribwixxu għax-xogħol li jsir fl-ewwel fażi, kif speċifikat fit-Taqsima 7.2 tal-Anness I, billi jipprovdur l-informazzjoni funzjonali u teknika kif ukoll l-għarfien espert tagħhom.

Artikolu 5

Il-korpi rappreżentattivi tas-settur ferrovjarju li joperaw fuq skala Ewropea, kif definiti fl-Artikolu 3(2) tar-Regolament (KE) Nru 881/2004 tal-Parlament Ewropew u tal-Kunsill ⁽¹⁾ flimkien ma' rappreżentant tal-bejjiegha tal-biljetti u rappreżentant tal-passiġġieri Ewropej, għandhom jiżviluppaw speċifikazzjonijiet dettaljati fil-materja tat-teknoloġija tal-informazzjoni, il-governanza u l-pjan ġenerali kif deskritt fit-Taqsima 7 tal-Anness I u għandhom jipprezentawhom lill-Kummissjoni sa mhux aktar tard minn sena wara l-pubblikazzjoni tagħhom f'Il-Ġurnal Uffiċjali tal-Unjoni Ewropea.

Artikolu 6

L-Istati Membri għandhom jiżguraw li l-impriżi ferrovjarji, l-amministraturi tal-infrastruttura, l-amministraturi tal-istazzjon u l-bejjiegha tal-biljetti jiġu mgharrafa b'dan ir-Regolament.

Artikolu 7

Dan ir-Regolament għandu jiġi emendat, u f'din l-emenda jitqiesu r-riżultati tal-ewwel fażi kif deskritt fit-Taqsima 7.2 tal-Anness I.

⁽¹⁾ ĠU L 164, 30.4.2004, p. 1.

Artikolu 8

Dan ir-Regolament għandu jidhol fis-seħh l-għada tal-jum tal-pubblikazzjoni tiegħu f' *Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*.

Dan ir-Regolament għandu jorbot fl-intier tiegħu u japplika direttament fl-Istati Membri kollha.

Magħmul fi Brussell, il-5 ta' Mejju 2011.

Għall-Kummissjoni
Il-President
José Manuel BARROSO

ANNEX I

1. INTRODUCTION

1.1. **Technical scope**

This Technical Specification for Interoperability (hereinafter referred to as the TSI) concerns the element 'applications for passenger services' of the subsystem 'telematics applications' of the trans-European rail system referred to in Article 6(1) of Directive 2008/57/EC. It is included in the functional area of the list in Annex II to Directive 2008/57/EC.

1.2. **Geographical scope**

The geographical scope of this TSI is the trans-European rail system as defined in Article 2(a) of Directive 2008/57/EC.

1.3. **Content of this TSI**

The content of this TSI is in accordance with Article 5 of Directive 2008/57/EC.

This TSI also comprises, in Chapter 4, the operating and maintenance rules specific to the technical and geographical scope.

2. DEFINITION OF THE SUBSYSTEM/SCOPE

2.1. **Subsystem**

This TSI covers:

- (a) the functional subsystem 'Telematics applications for passenger services';
- (b) the part of the maintenance subsystem relating to the telematics applications for passenger services (i.e. methods of use, management, updating and maintenance of databases, software and data communication protocols, etc.).

It includes the provision of information on the following aspects:

- (a) systems providing passengers with information before and during the journey;
- (b) reservation and payment systems;
- (c) luggage management;
- (d) issuing of tickets via ticket offices or ticket selling machines or telephone or Internet, or any other widely available information technology, and on board trains;
- (e) management of connections between trains and with other modes of transport.

2.1.1. *Providing passengers with information before and during the journey*

Annex II to Regulation (EC) No 1371/2007 on rail passengers' rights and obligations lists the minimum information to be provided to passengers by railway undertakings and/or by ticket vendors.

2.1.2. *Reservation and payment systems*

Information will be exchanged between the reservation and ticketing systems, and the payment systems of the different ticket vendors and railway undertakings in order to enable the passenger to pay for the above tickets, reservations and supplements for the journey and service chosen by the passenger.

2.1.3. *Luggage management*

Information will be provided to the passenger relating to the complaints procedures in the event of registered luggage being lost during the journey. Moreover, passengers will be provided with information about sending or picking up registered luggage.

- 2.1.4. *Issuing of tickets via ticket offices or ticket selling machines or telephone or Internet or any other widely available information technology*

Information will be provided between railway undertakings and ticket vendors in order to enable the latter to issue, where available, tickets, through tickets, and supplements, and to make reservations.

- 2.1.5. *Management of connections between trains and with other modes of transport*

A standard is proposed for the provision of information to and exchange of information with other modes of transport.

3. ESSENTIAL REQUIREMENTS

3.1. **Compliance with the essential requirements**

In accordance with Article 4(1) of Directive 2008/57/EC, the trans-European rail system, subsystems and interoperability constituents must meet the essential requirements set out in general terms in Annex III to the Directive.

Within the scope of the present TSI, fulfilment of relevant essential requirements quoted in Chapter 3 of this TSI will be ensured for the subsystem by compliance with the specifications described in Chapter 4: Characterisation of the subsystem.

3.2. **Aspects relating to general requirements**

The relevance of the general requirements to the telematics applications subsystem for passengers is determined as follows:

3.2.1. *Safety*

The safety-related essential requirements that apply to the telematics applications subsystem for passengers are the following: essential requirements 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.1.5 of Annex III to Directive 2008/57/EC. These essential requirements are not relevant to the telematics applications subsystem.

3.2.2. *Reliability and availability*

The essential requirement 1.2 of Annex III to Directive 2008/57/EC is met by the following sections:

— Section 4.2.19: Various reference files and databases,

— Section 4.2.21: Networking and communication.

3.2.3. *Health*

Essential requirements 1.3.1 and 1.3.2 of Annex III to Directive 2008/57/EC are not relevant to the telematics applications subsystem.

3.2.4. *Environmental protection*

Essential requirements 1.4.1, 1.4.2, 1.4.3, 1.4.4 and 1.4.5 of Annex III to Directive 2008/57/EC are not relevant to the telematics applications subsystem.

3.2.5. *Technical compatibility*

Essential requirement 1.5 of Annex III to Directive 2008/57/EC is not relevant to the telematics applications subsystem.

3.3. **Aspects relating specifically to the telematics applications for the passenger services subsystem**

The relevance of the general requirements to the telematics applications for the passenger services subsystem is determined as follows:

3.3.1. *Technical compatibility*

Essential requirement 2.7.1 of Annex III to Directive 2008/57/EC is met in particular by the following sections:

- Section 4.2.19: Various reference files and databases,
- Section 4.2.21: Networking and communication.

3.3.2. *Reliability and availability*

Essential requirement 2.7.2 of Annex III to Directive 2008/57/EC is met in particular by the following sections:

- Section 4.2.19: Various reference files and databases,
- Section 4.2.21: Networking and communication.

However, this essential requirement, especially the method of use to guarantee the efficiency of these telematics applications and the quality of the service, is the foundation for the complete TSI and is not restricted only to the sections mentioned above.

3.3.3. *Health*

Regarding essential requirement 2.7.3 of Annex III to Directive 2008/57/EC, this TSI does not specify any requirements in addition to existing national and European rules related to minimum rules on ergonomics and health protection of an interface between these telematics applications and users.

3.3.4. *Safety*

Essential requirement 2.7.4 of Annex III to Directive 2008/57/EC is met by the following sections:

- Section 4.2.19: Various reference files and databases,
- Section 4.2.21: Networking and communication.

4. CHARACTERISATION OF THE SUBSYSTEM

4.1. **Introduction**

Taking all the applicable essential requirements into account, the telematics application for passenger services subsystem is characterised by the following basic parameters which are described in the following sections.

4.2. **Functional and technical specifications of the subsystem**

4.2.1. *Exchange of timetable data*

This basic parameter lays down how the railway undertaking shall perform the exchange of timetable data.

This basic parameter shall ensure that timetables comprising the data elements defined below shall be made available to another railway undertaking, to third parties and to public bodies. This basic parameter shall further ensure that each railway undertaking shall provide accurate and up-to-date timetable data.

The provisions of this basic parameter shall apply to the passenger services of the railway undertaking.

This basic parameter shall have the following process:

4.2.1.1. *The railway undertaking makes available its own timetable data to other railway undertakings and to third parties*

The railway undertaking shall make available all of its timetable data for which the railway undertaking is responsible as sole or joint carrier and which are related to transport services which are available for purchase by the public by guaranteeing access to all railway undertakings, to third parties and to public bodies. The railway undertaking shall ensure that the timetable data are accurate and up-to-date. The timetable data shall be kept available at least for 12 months after such data have expired.

Where a railway undertaking operates a transport service for which it is one of the Joint carriers, the railway undertaking shall ensure, together with all the other Joint carriers, that its part of the timetable are accurate and up-to-date.

The main content of the timetable data shall be:

- Basic principles of train variants
- Representation of a train
- Different possible ways of representing days of operation
- Train category/service mode
- Transport service relationships
- Coach groups attached to trains
- Joining to, splitting from
- Through connections (connecting to)
- Through connections (change of service number)
- Details of transport services
- Stops with traffic restrictions
- Overnight trains
- Crossing of time zones
- Pricing regime and reservation details
- Information provider
- Reservation provider
- Service facilities
- Accessibility of the train (including scheduled existence of priority seats, wheelchair spaces, universal sleeping compartments — see PRM TSI 4.2.4) — see Section 4.2.6.1
- Service extras
- Connecting — Timing between transport services
- Station list.

For those transport services over which the railway undertaking has sole control, the annual timetable shall be made available at least 2 months before that timetable comes into force. For the remaining transport services, the railway undertaking shall make the timetable available as soon as possible.

The railway undertaking shall make available any changes to the annual timetable in a series of timetable updates at least 7 days before those changes take effect. This obligation shall apply only if the change is known to the railway undertaking seven or more days in advance of it taking effect.

The above process and the information used therefor shall comply with the technical document(s):

— B.4 (see Annex III).

4.2.2. *Exchange of tariff data*

This basic parameter lays down how the railway undertaking shall perform the exchange of tariff data.

This basic parameter shall ensure that tariff data in the format defined below shall be available for other railway undertakings or for third parties authorised to sell.

The provisions of this basic parameter shall apply in respect of all passenger tariffs of the railway undertaking for domestic, international and foreign sales.

This basic parameter shall have following process:

4.2.2.1. The railway undertaking makes available its own tariffs to other railway undertakings, authorised public bodies and third parties authorised to sell

The railway undertaking shall make available all its tariffs (including fare tables) by guaranteeing access to the railway undertakings and third parties to which it grants authorisation to sell according to distribution agreements and to authorised public bodies. The railway undertaking shall ensure that the tariff data are accurate and up-to-date.

Where a railway undertaking operates a transport service for which it is one of the joint carriers, the railway undertaking shall ensure, together with all the other joint carriers, that the tariff data are accurate and up-to-date.

The main content of tariff data intended for international or foreign sales shall be as defined in Annex IV.

Tariff data intended for international or foreign sales shall be made available to railway undertakings and third parties authorised to sell according to distribution agreements and to authorised public bodies, at least as far in advance as provided for in Annex IV.

The above process and the information used for it shall be compliant for tariff data intended for international or foreign sales with the technical document(s):

— B.1 (see Annex III),

— B.2 (see Annex III),

— B.3 (see Annex III).

Tariff data intended for domestic sales shall be made available to railway undertakings and to third parties which are authorised to sell, and also to authorised public bodies, at least as long in advance as it is the case for tariff data intended for international or foreign sales.

The above process and the information used for it in respect of tariff data intended for domestic sales shall comply with the technical document(s) to be developed by the Agency (see Annex II).

4.2.3. *Handling of information on contact details of the railway undertaking*

This basic parameter lays down how the railway undertaking shall provide information about its official website from which customers can obtain accurate information.

The provisions of this basic parameter shall apply to all railway undertakings.

This basic parameter shall have following process:

4.2.3.1. The railway undertaking makes available a dataset of its contact details

The railway undertaking shall make available to other railway undertakings, to the Agency, to third parties and to public bodies a dataset that includes its carrier name, carrier code and its official website. The official website referred to in this basic parameter shall be machine readable and compliant with web content accessibility guidelines. If a railway undertaking operates a joint business unit with (an)other railway undertaking(s), the name of the joint business unit, carrier codes and official website shall be made available to the other railway undertakings.

When a railway undertaking makes its timetable information available to other railway undertakings pursuant to Section 4.2.1.1, it shall ensure that the carrier name in the timetable delivery has a corresponding carrier name in this dataset. If changes have occurred, the railway undertaking shall update the content of the dataset as soon as possible.

4.2.4. *Handling of information concerning conditions of carriage*

This basic parameter lays down how the railway undertaking shall handle information concerning conditions of carriage.

This basic parameter shall ensure that conditions of carriage are available on the official website of the railway undertaking.

The provisions of this basic parameter shall apply to the passenger services of the railway undertaking.

This basic parameter shall entail the following process:

4.2.4.1. The railway undertaking publishes information relating to conditions of carriage

The railway undertaking shall publish information relating to:

- general conditions of carriage for rail passengers (GCC-CIV/PRR),
- its own conditions of carriage,
- a link to Regulation (EC) No 1371/2007 of 23 October 2007 on rail passengers' rights and obligations,
- the accepted means of payment,
- sales and after-sales conditions, especially for the exchange and reimbursement of tickets,
- procedures for the submission of complaints,

at least on its official website. This website shall comply with web content accessibility guidelines which take into account the needs of people with auditory and/or visual impairment.

This process shall be performed for the first publication not later than 6 months after this TSI comes into force. Changes to this information shall be published at least 6 days before they enter into force. The railway undertaking shall list the articles which have been changed compared to the previous version. On each such occasion the railway undertaking shall maintain the earlier version of this information on its official website.

4.2.5. *Handling of information concerning carriage of registered luggage*

This basic parameter lays down how the railway undertaking shall ensure the provision of information for the carriage of registered luggage if the service is offered by the railway undertaking. If the service is not offered, the railway undertaking shall provide the information that the service is not offered.

This basic parameter shall ensure that information on the handling of registered luggage shall be available to the passenger.

This basic parameter shall entail the following process:

4.2.5.1. The railway undertaking publishes conditions for the handling of registered luggage

The railway undertaking shall publish for the attention of passengers the conditions for the handling of registered luggage where the railway undertaking offers such handling. Where the service is not offered, the railway undertaking shall publish information to that effect. This information shall be published at least on the official website of the railway undertaking. This website shall comply with web content accessibility guidelines which take into account the needs of people with auditory and/or visual impairment.

This process shall be performed for the first publication not later than 6 months after this TSI comes into force. Changes to this information shall be published at least 6 days before the modification enters into force. The railway undertaking shall list the articles which have been modified compared to the previous version. The railway undertaking shall on each such occasion maintain the previous version of this information on its official website.

4.2.6. *Handling of information concerning carriage and assistance of persons with reduced mobility (PRM)*

This basic parameter lays down how the railway undertaking, ticket vendor, and/or station manager must ensure the provision of information on the carriage and assistance of PRMs.

This basic parameter shall ensure that information on the carriage and assistance of PRMs shall be available to the passenger. If the railway undertaking uses IT communication for the purposes of sending an availability/-reservation request for PRM assistance, the system to which it is addressed shall at least be able to handle messages according to the protocol specified in the technical document B.10 (see Annex III). In addition, the system shall issue a confirmation number for the assistance reservation — this is essential in order to provide the customer/passenger with the guarantee and confidence that the assistance will be provided and to establish accountability and responsibility for the provision of assistance. Those messages contain all the information needed in order for the railway undertaking, ticket vendor and/or station manager to issue to the PRM a confirmation number (for each departure and arrival of each journey) to reserve assistance.

The provisions of this basic parameter shall apply as follows: the handling of information concerning the carriage of PRM shall be applied in respect of the passenger services of the railway undertaking. The provisions of this basic parameter regarding electronic request/confirmation shall be applied if there is an agreement between the requesting and the addressed parties.

This basic parameter shall entail the following processes:

4.2.6.1. The railway undertaking publishes information on the accessibility of rail services and on the conditions of access to rolling stock

The railway undertaking shall publish the following information:

- the train types/numbers and/or line number (if no train number is available for the public) where PRM facilities are available,
- the types and minimum quantities of PRM facilities in the above trains (such as wheelchair seat, PRM berth, PRM toilet, location of PRM seats) under normal operating conditions,
- the methods of requesting assistance for boarding and disembarking from trains (including PRM notice period, address, e-mail, operating hours and the telephone number of the office(s) for PRM-assistance) according to Article 24 of the Regulation on Passenger Rights,
- the maximum size and weight of wheelchair (including the weight of the PRM) permitted,
- the transport conditions for accompanying persons and/or animals,
- conditions of access to the station building and platforms, including whether the station is classified as accessible for PRMs and whether is staffed for PRM support,

at least on its official website. This website shall comply with web content accessibility guidelines which take into account the needs of people with auditory and/or visual impairment.

This process shall be performed for the first publication at the latest 6 months after this TSI comes into force. Any modifications to this information shall be published at least 6 days before the modification enters into force. The railway undertaking shall list the articles which have been modified compared to the previous version. On each occasion the railway undertaking shall maintain on its official website the previous version of this information.

4.2.6.2. The railway undertaking or ticket vendor sends an availability/reservation request for PRM assistance to the addressed system(s)

If the railway undertaking or ticket vendor uses IT communication for the purposes of sending an availability/reservation request for PRM assistance, such request must comply with the relevant provisions.

The possibility of making a reservation for PRM assistance shall be subject to the existence of a commercial agreement between the carrier(s) and distributor(s) involved. Such agreements can include charges, technical and safety standards, specific limitations in terms of trains, origins/destinations, tariffs, sales channels, etc.

Subject to an agreement between the parties involved, the requesting distribution system shall send to the system requests for the relevant train availability/reservation in respect of the specified type of assistance.

The main types of requests shall be:

- Availability request,
- Reservation request,
- Partial cancellation request,
- Full cancellation request.

This process shall be performed following a request from a customer transmitted to the system of the railway undertaking or ticket vendor.

The data elements and the information content of the message used to meet the obligations shall comply:

- either with elements defined in the technical document B.10 (see Annex III), in which case all addressed systems must be able to understand the request and to respond,
- or with otherwise defined standards, in which case the addressed system must be able to understand the request and to reply only if there is a specific agreement with the requesting system.

4.2.6.3. Addressed system sends an availability/reservation response for PRM assistance

If the railway undertaking uses IT communication for the purposes of sending of an availability/reservation response for PRM assistance, it shall abide by the terms and conditions of this process.

If a request for reservation of PRM assistance has been properly formulated according to the process described above, the addressed system shall send to the requesting system an availability/reservation response for the requested assistance type.

The main types of reservation responses shall be:

- Reply about availability,
- Confirmation of reservation request,

- Confirmation of partial cancellation request,
- Confirmation of complete cancellation request,
- Negative reply.

This process shall be performed in response to an incoming request received by the system to which it is sent according to the process described above.

The data elements and the message information contents used to meet the obligations shall comply:

- either with the elements defined in technical document B.10 (see Annex III),
- or with otherwise defined standards,

according to the protocol used by the requesting system.

4.2.7. *Handling of information concerning the carriage of bicycles*

This basic parameter lays down how the railway undertaking shall ensure the provision of information concerning the carriage of bicycles.

This basic parameter shall ensure that information for the carriage of bicycles shall be available to the passenger. The attributing system shall be able to handle at least messages according to the protocol specified in technical document B.5 (see Annex III).

The provisions of this basic parameter shall apply as follows: the handling of information concerning the carriage of bicycles shall be applied in respect of the passenger services of the railway undertaking where carriage of bicycles is offered. The provisions of this basic parameter regarding an electronic request/confirmation shall be applied if there is an agreement between the requesting and the attributing parties for the provision of services where such carriage may be reserved or is subject to compulsory reservation.

This basic parameter shall have the following processes:

4.2.7.1. *The railway undertaking publishes conditions for handling of bicycles*

The railway undertaking shall publish for the attention of passengers the conditions for carriage of bicycles where such carriage is offered by the railway undertaking. This information shall be published at least on the railway undertaking's official website. This website shall meet web content accessibility guidelines which take into account the needs of people with auditory and/or visual impairment. These conditions shall list at least:

- the train types/numbers or line number (if no train number is available for the public) where carriage of bicycles is available,
- particular times/periods where carriage of bicycles is permitted,
- the fares for the carriage of bicycles,
- whether a specific reservation for a bicycle storage place in the train is available or required (including bicycle notice period, operating hours, e-mail and/or telephone).

The first publication of these conditions shall take place not later than 6 months after this TSI comes into force. Changes to this information shall be published at least 6 days before the change comes into force. The railway undertaking shall list the articles which have been changed compared to the previous version. The railway undertaking shall in all cases maintain the previous version of this information on its official website.

4.2.7.2. A railway undertaking or ticket vendor sends an availability/reservation request for bicycles to the attributing reservation system

The possibility of making a reservation shall be subject to the existence of a commercial agreement between the carrier(s) and distributor(s) involved. Such agreements can include charges, technical and safety standards, specific limitations in terms of trains, origins/destinations, tariffs, sales channels, etc.

If the railway undertaking or ticket vendor uses IT communication for the purposes of sending a request for availability/reservation for the carriage of bicycles, such communication shall conform to the requirements of this process.

Subject to an agreement between the parties involved, the requesting distribution system shall send requests for the specified bicycle carriage to the attributing system concerning the availability/reservation of the train concerned.

The main types of reservation requests shall be:

- Enquiry about availability,
- Reservation request,
- Partial cancellation request,
- Complete cancellation request.

This process shall be performed following a request from a customer sent to the distribution system of the railway undertaking.

The data elements and the information content of the message used to meet the obligations shall be compliant:

- either with the definitions in technical document B.5 (see Annex III), in which case all attributing systems shall be able to understand the request and to answer,
- or with otherwise defined standards, in which case the attributing system shall be able to understand the request and to answer only if a specific agreement has been concluded with the requesting distribution system.

4.2.7.3. Attributing reservation system sends availability/reservation response for bicycles

If the railway undertaking uses IT communication for the purposes of sending of an availability/reservation answer for the carriage of bicycles, it shall follow the relevant instructions of this process.

If a request for reservation of bicycle spaces has been correctly formulated according to the process above described, the attributing system shall send to the requesting distribution system an availability/reservation response for the requested train.

The main types of reservation responses shall be:

- Reply about availability,
- Confirmation of reservation request,
- Confirmation of partial cancellation request,
- Confirmation of complete cancellation request,
- Negative reply.

This process shall be performed in response to an incoming request arriving at the attributing system according to the process described above.

The data elements and the information content of the message used to meet the obligations shall comply:

- either with information contained in technical document B.5 (see Annex III),
- or with otherwise defined standards,

according to the protocol used by the requesting attributing system.

4.2.8. *Handling of information concerning the carriage of cars*

This basic parameter lays down how the railway undertaking shall ensure the provision of information for the carriage of cars/motorcycles (in the following, the word 'cars' includes motorcycles) if it is offered by the railway undertaking.

This basic parameter shall ensure that information on the carriage of cars shall be available to the passenger. The attributing system shall be able to handle at least messages according to the protocol specified in technical document B.5 (see Annex III).

The provisions of this basic parameter shall apply as follows: the handling of information concerning the carriage of cars shall be applied in respect of the passenger services of the railway undertaking where carriage of cars is offered. The provisions of this basic parameter regarding electronic request/confirmation shall apply if there is an agreement between the requesting and the attributing parties for services where such carriage may be reserved or is subject to mandatory reservation.

This basic parameter shall apply as follows:

4.2.8.1. *The railway undertaking publishes conditions for the handling of cars*

The railway undertaking shall communicate to the passenger the conditions for carriage of cars where this is offered by the railway undertaking. This information shall be published at least at the railway undertaking's official website. This website shall comply with web content accessibility guidelines which take into account the needs of people with auditory and/or visual impairment.

These conditions shall list at least:

- the train types/numbers on which carrying of cars is available,
- particular times/periods where carrying of cars is available,
- the standard fares for carrying of cars (incl. fares for accommodation of passengers, where accommodation is offered by the railway undertaking),
- specific address and time for loading of cars on to the train,
- specific address and arrival time of the train at the station of destination,
- size, weight and other limitations for the transport of cars.

The first publication shall take place at the latest 6 months after this TSI comes into force. Changes to this information shall be published at least 6 days before they enter into force. The railway undertaking shall list the articles which have been amended. The railway undertaking shall on each occasion keep the previous version of this information on its official website.

4.2.8.2. The railway undertaking or ticket vendor sends an availability/reservation request for cars to the reservation system

The possibility of making a reservation shall be subject to the existence of a commercial agreement between the carrier(s) and distributor(s) involved. Such agreements may include charges, technical and security standards, specific limitations in terms of trains, Origins/Destinations, tariffs, sales channels, etc.

If the railway undertaking or ticket vendor uses IT communication for the purpose of sending availability/reservation requests for the carriage of cars, such communication shall comply with the provisions governing this process.

Subject to an agreement between the parties involved, the requesting distribution system shall send to the attributing system for the relevant train availability/reservation requests for the specified carriage of cars.

The main types of reservation requests shall be:

- Availability request,
- Reservation request,
- Partial cancellation request,
- Complete cancellation request.

This process shall be performed following a request transmitted by a customer to the distribution system of the railway undertaking.

The data elements and the information content of the message used to meet the obligations shall be compliant:

- either with elements defined in technical document B.5 (see Annex III), in which case all attributing systems shall be able to understand the request and to reply,
- or with otherwise defined standards, in which case the attributing system shall be able to understand the request and to answer only if there is a specific agreement with the requesting distribution system.

4.2.8.3. Attributing reservation system sends availability/reservation response for cars

If the railway undertaking uses IT communication for the purpose of sending availability/reservation responses for the carriage of cars, it shall adhere to the rules laid down in respect of this process.

If a request for reservation of cars has been properly formulated according to the process described above, the attributing system shall send an availability/reservation response for the requested train to the requesting distribution system.

The main types of reservation responses shall be:

- Reply about availability,
- Confirmation of reservation request,
- Confirmation of partial cancellation request,
- Confirmation of complete cancellation request,
- Negative reply.

This process shall be performed in response to an incoming request arriving at the attributing system according to the process described above.

The data elements and the information content of the message used to meet the obligations shall comply:

- either with elements defined in technical document B.5 (see Annex III),
- or with otherwise defined standards,

according to the protocol used by the requesting distribution system.

4.2.9. *Handling of availability/reservation*

This basic parameter lays down the manner in which the railway undertakings shall deal with reservations for the accommodation of passengers. All of the various types of accommodation (such as seats, couchettes, sleepers, priority seats, wheelchair spaces, universal sleeping compartments (see PRM TSI Section 4.2.4)) will be designated hereinafter as 'places', unless more specific information is needed. Reservations for the carriage of bicycles, cars and for assistance of PRM, are described in separate basic parameters in separate sections.

Reservation of places may simply concern the booking of accommodation, in addition to the transport contract, or may be part of a combined transaction which includes both accommodation and a transport contract.

This basic parameter shall ensure that the issuing and attributing railway undertakings shall exchange appropriate availability and reservation information. The attributing system shall be able to handle at least messages according to the protocol specified in the technical document B.5 (see Annex III).

The provisions of this basic parameter shall be applied if an agreement between the requesting and the attributing parties exists in respect of services which may be reserved or are subject to mandatory reservation.

This basic parameter shall involve the following processes:

4.2.9.1. *The railway undertaking or ticket vendor sends an availability/reservation request to the attributing reservation system*

The possibility of making a reservation shall be subject to the existence of a commercial agreement between the involved carrier(s) and distributor(s). Such agreements can include charges, technical and safety standards, specific limitations in terms of trains, origins/destinations, tariffs, sales channels, etc.

Subject to an agreement between the parties involved, the requesting distribution system shall send requests to the attributing system in respect of the relevant train availability/reservation for the specified accommodation type.

The main types of reservation requests are:

- Enquiry about availability,
- Reservation request,
- Request for partial cancellation,
- Request for complete cancellation.

This process shall be performed following a request from a customer transmitted to the distribution system of the railway undertaking.

The data elements and the information contained in the message used to meet the obligations shall comply:

- either with the elements set out in technical document B.5 (see Annex III), in which case all attributing systems shall be able to understand the request and to reply,
- or with otherwise defined standards, in which case the attributing system shall be able to understand the request and to answer only if there is a specific agreement with the requesting distribution system.

4.2.9.2. *Attributing reservation system sends availability/reservation response*

If a request for reservation of places has been validly formulated according to the process described above, the attributing system shall send an availability/reservation response for the requested train to the requesting distribution system.

The main types of reservation responses shall be:

- Reply about availability,
- Confirmation of reservation request,
- Confirmation of partial cancellation request,
- Confirmation of complete cancellation request,
- Replacement proposal,
- Negative reply.

This process shall be performed in response to an incoming request arriving at the attributing system according to the process described above.

The data elements and the message information contents used to meet the obligations shall be compliant:

- either with elements defined in technical document B.5 (see Annex III),
- or with otherwise defined standards,

according to the protocol used by the requesting distribution system.

4.2.10. *Handling of security elements for product distribution*

This basic parameter specifies the manner in which the attributing railway undertaking shall generate security elements for the distribution of its products.

This basic parameter must ensure that railway undertakings and passengers shall, at the appropriate time, obtain from the attributing railway undertaking the security information and references needed for the various ticket types.

This basic parameter shall entail the following processes:

4.2.10.1. *Attributing system creates security element for electronic delivery*

If a railway undertaking issues CIV compliant ticket/reservation, the staff of the rail ticket office/agency/retailer or the distribution system of the railway undertaking shall generate the security information to be inserted in the ticket/reservation.

This process shall be performed as soon as the booking status and sales transaction data have been successfully sent to the distribution system of the agreed railway undertakings.

The above process and the information used for it shall comply with:

- the standard for the handling of security elements for product distribution which is under development. It is therefore an open point and is listed in Annex II.

4.2.10.2. *Attributing system creates a dossier reference for the railway undertaking for electronic delivery*

If a railway undertaking issues CIV compliant ticket/reservation, the staff of rail ticket office/agency/retailer or the distribution system of the railway undertaking shall produce a dossier reference to retrieve the ticket/reservation and shall enter all information concerning the ticket into its own distribution system.

This process shall be performed as soon as the booking status and sales transaction data have been successfully sent to the distribution system of the agreed railway undertakings.

The above process and the information used for it shall be compliant with:

- the standard for the handling of security elements for product distribution which is under development. It is therefore an open point and is listed in Annex II.

4.2.10.3. *Attributing system creates a dossier reference for the passenger for electronic delivery*

If a railway undertaking issues a CIV compliant ticket/reservation, the staff of the rail ticket office/agency/retailer or the distribution system of the railway undertaking shall generate a dossier reference and shall enter it on the ticket/reservation.

This process shall be performed as soon as the booking status and sales transaction data have been successfully sent to the distribution system of the agreed railway undertakings.

The above process and the information used for it shall be compliant with:

- the standard for the handling of security elements for product distribution which is under development. It is therefore an open point and is listed in Annex II.

4.2.11. *Delivery of the product to the customer after its purchase (fulfilment)*

This basic parameter sets out all the possible direct and indirect fulfilment methods which are linked to the ticket and/or reservation and to the kind of media (e.g. paper).

This basic parameter shall ensure that the issuer or ticket vendor shall issue tickets according to standards that ensure interoperability between railway undertakings. For the purposes of issuing tickets for international and foreign sales, railway undertakings shall use at least one of the fulfilment types listed in Section 4.2.11.1 Fulfilment — direct — for international and foreign sales and in Section 4.2.11.2 Fulfilment — indirect — for international and foreign sales.

The provisions of this basic parameter shall be applied at least in respect of the tariffs for international and foreign sales.

4.2.11.1. *Fulfilment — direct — for international and foreign sales*

This process shall be an alternative to process 4.2.11.2 Fulfilment — indirect — for international and foreign sales.

The railway undertakings shall at least accept tickets according to the definition in technical document B.6 (see Annex III), except where the ticket is not appropriate for the journey being undertaken, where the railway undertaking has reasonable grounds to suspect fraud and where the ticket is not being used in accordance with the conditions of carriage according to Section 4.2.4.

The main types of issued tickets are specified in technical document B.6 of Annex III:

- Ticket and reservation,
- Ticket only,
- Reservation only,
- Supplements,
- Upgrade,
- Change of itinerary,
- Boarding pass,
- Special fares in conjunction with national railcards,
- Group ticket,
- International rail passes of various kinds,
- Accompanied vehicle coupon,
- Travel voucher for compensation.

The above process and the information used for it shall be compliant with the technical document(s):

- B.6 (see Annex III).

4.2.11.2. Fulfilment — indirect — for international and foreign sales

This process shall be an alternative to process 4.2.11.1 Fulfilment — direct — for international and foreign sales

If the railway undertaking makes sales using indirect fulfilment on one of the following methods, it must use the following standards:

- CIV compliant electronic delivery (Ticket On Departure),
- CIV compliant Manifest On List,
- CIV compliant A4 ticket via e-mail delivery.

The main types of above issued tickets shall be:

- Open ticket (travel only),
- Open ticket + reservation (travel and reservation),
- Open ticket + supplement (travel and supplement),
- Open ticket + reservation + supplement (travel, reservation and supplement),
- Global price ticket (travel and reservation).

The above process and the information used for it shall be compliant with the following technical document(s):

- B.6 (see Annex III),
- B.7 (see Annex III),
- Standard for European 'Ticket On Departure' and for European 'Manifest On List' is under development. It is therefore an open point and is listed in Annex II.

4.2.11.3. Fulfilment — direct — domestic sales

This is an open point (see Annex II).

4.2.11.4. Fulfilment — indirect — domestic sales

This is an open point (see Annex II).

4.2.12. *Handling of information provision in the station area*

This basic parameter lays down how the station manager shall provide the customer with train running information within the station area.

The provisions shall apply only if there has been a renewal, major upgrade or new installation of voice announcements and/or display systems.

The provisions of this basic parameter shall apply at least in respect of stations at which trains performing international service stop.

This basic parameter shall entail the following processes:

4.2.12.1. Station manager informs customers within the station

With regard to information on train departures, station managers shall provide the following departure information on trains to customers in stations:

- Train type and/or number,
- Station(s) of destination,
- And, where appropriate, intermediate station stop(s),
- Platform or track,
- Scheduled Departure time.

In the event of deviation from this information for departing trains, station managers shall provide, in stations, at least the following train information:

- Train type and/or number,
- Station(s) of destination,
- Scheduled Departure time,
- Deviation from plan.

As regards information on terminating trains, the station manager shall provide at least the following train information:

- Station(s) of origin,
- Arrival time at the terminating station,
- Train type and/or number,
- Arrival platform or track.

In the case of deviation for terminating trains, the station manager shall provide at least the following information for such trains:

- Train type and/or number,
- Station(s) of origin,
- Scheduled arrival time,
- Deviation from plan.

Deviations from plan comprise:

- Material delays,
- Change of track or platform,
- Full or partial cancellation of train,
- Train rerouting.

The station manager decides according to agreements with the railway undertakings and/or infrastructure managers on:

- The type of information system (Display and/or voice announcement),
- The point in time when the information is provided,
- The location within the station where the information system will be installed.

In accordance with a contractual agreement, information about deviations shall be delivered by railway undertakings and/or Infrastructure managers in due time to the station manager.

4.2.13. *Handling of information provision in the vehicle area*

This basic parameter lays down how the railway undertaking shall provide train running information within the vehicle area.

The provisions shall apply to new or renewed or upgraded rolling stock, if information systems (voice announcements and/or displays) are renewed or installed.

The provisions of this basic parameter shall apply to at least all those trains performing international service.

This basic parameter shall have the following processes:

4.2.13.1. The railway undertaking informs passengers in the train

The railway undertakings shall provide passengers in the train:

- At station of departure and major intermediate station stops:
- Train type and/or number,
- Final destination(s),
- Where practicable, intermediate station stops,
- Material delay,
- Reasons for delay, if known.

Before arrival at all intermediate station stops:

- Next station stop (station name).

Before arrival at major intermediate station and destination station:

- Next station stop (station name),
- Planned arrival time,
- Estimated arrival time and/or other Delay information,
- Next main connecting services (at the discretion of the railway undertaking).

The railway undertaking decides on:

- The type of information system (Display and/or voice announcements),
- The point in time when the information will be provided,
- The location within a train where the information devices will be installed.

4.2.14. *Train preparation*

This basic parameter lays down the manner in which the railway undertaking must inform the infrastructure manager that the train is ready to access the network when train departure tasks as defined in OPE TSI Section 4.2.3.3 have been carried out or when the train number has changed.

The provisions of this basic parameter shall apply to all trains of the railway undertaking.

This basic parameter shall entail the following processes:

4.2.14.1. 'Train ready' message for all trains

The railway undertaking shall send a 'train ready' message to the infrastructure manager every time a train is ready to access the network for the first time, unless under national rules the infrastructure manager accepts the timetable as a 'train ready' message. In the latter case, the railway undertaking shall inform the infrastructure manager and, if applicable, the station manager if the train is not ready as soon as possible.

Messages shall consist at least of:

- Train and/or path Number,
- Train ready indication, which indicates that the train has been prepared and is ready to run.

Other items, such as:

- Path departure Point with the time for which the path was requested,
- Path Destination Point with the time at which the proposed train is due to arrive at its destination,

may be transmitted in the same message.

The above process and the information used for it shall at least comply with the 'train ready' message of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if the parties involved have concluded a specific agreement allowing these standards to be used.

4.2.15. *Train running information and forecast*

This basic parameter lays down the train running information and train running forecast. It must prescribe how the dialogue between infrastructure manager and railway undertaking, as well as between railway undertaking and station manager, are to be maintained in order to exchange train running information and train running forecasts.

This basic parameter lays down how the infrastructure manager must, at the appropriate time, send train running information to the railway undertaking and the next neighbouring infrastructure manager involved in the operation of the train.

The train running information serves to provide details of the current status of the train at contractually agreed reporting points.

The train running forecast is used to provide information about the estimated time at contractually agreed forecast points. This message shall be sent from the infrastructure manager to the railway undertaking and the neighbouring infrastructure manager involved in the run. The information about the train running forecast shall be delivered to the station manager in due time by the railway undertakings and/or infrastructure managers according to a contractual agreement.

The path contract specifies Reporting Points for the train's movement.

This basic parameter describes the content of the message and does not prescribe the process for generating the train running forecast.

The provisions of this basic parameter shall apply to all trains of the railway undertaking.

This basic parameter shall entail the following processes:

4.2.15.1. Train running information for all trains

The infrastructure manager shall send a 'train running information' message to the railway undertaking. This process shall be performed as soon as the train reaches contractually agreed reporting points at which to deliver train running information. An agreed Reporting Point can be, among others, a handover point, a Station or the final destination of the train.

The message shall consist at least of the following:

- Train and/or path Number (train ID),
- Scheduled time and actual time at agreed Reporting Point,
- Identification of the Reporting Point,
- Status of train at the Reporting Point (arrival, departure, passage, departure from originating station, arrival at final destination).

Other items, such as:

- delta deviation from booked scheduled time (in minutes),
- where available, the reason for the delay,

may be transmitted in the same message.

The above process and the information used for it shall comply at least with the 'TrainRunningInformation-Message' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved to allow the use of these standards.

4.2.15.2. Train running forecast for all trains

The infrastructure manager shall send a 'train running forecast' message to the railway undertaking.

This process shall be performed as soon as the train reaches contractually agreed Reporting Points to deliver a forecast. An agreed forecast point can be, among others, a handover point or a Station. A train running forecast can also be sent before the train starts running. For additional delays occurring between two Reporting Points, a threshold has to be contractually defined between the railway undertaking and the infrastructure manager to which an initial or a new forecast has to be sent. If the delay is not known, the infrastructure manager has to send a 'service disruption message' (see Section 4.2.16 Service disruption information).

The train running forecast message must give the forecast time for agreed forecast points.

Information on the train running forecast shall be delivered by the railway undertakings and/or infrastructure managers in due time to the station manager under a contractual agreement.

The infrastructure manager shall send this message to the next neighbouring infrastructure manager involved in the train run.

The message must consist at least of:

- train and/or path number (train ID),
- for each agreed forecast point:
 - scheduled time and forecast time,
 - identification of the agreed forecast point,
 - status of train at agreed forecast point (arrival, departure, passage, arrival at final destination).

Other items, such as:

- estimated delta deviation from booked scheduled time (in minutes),
- transmission of the reason for delay, where available,

may be sent in the same message.

The above process and the information used for it shall at least be compliant with the 'Train RunningForecastMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if a specific agreement to that effect has been signed between the parties involved that allows the use of these standards.

4.2.16. *Service disruption information*

This basic parameter lays down how service disruption information is handled between the railway undertaking and the infrastructure manager.

The provisions of this basic parameter shall apply to all trains of the railway undertaking.

For the purpose of dealing with passengers' complaints, service disruption data shall be kept available for railway undertakings, ticket vendors and/or authorised public bodies for at least 12 months after such data has expired.

This basic parameter shall entail the following processes:

4.2.16.1. *General remarks*

The railway undertaking shall inform the infrastructure manager of the operational status of the trains, as defined in OPE TSI Section 4.2.3.3.2.

If train running is interrupted, the infrastructure manager shall send a 'train running interrupted' message as specified below.

4.2.16.2. *Train Running Interrupted message for all trains*

If train running is interrupted, the infrastructure manager issues this message to the neighbouring infrastructure manager and to the railway undertaking(s).

If the length of the delay is known, the infrastructure manager must send a train running forecast message (see Section 4.2.15.2 Train running forecast).

The main data elements in this message are:

- path and/or train number (train ID),
- identification of location based on the next location from the location reference file,
- start time of interruption,
- scheduled departure date and time at this location,
- code denoting the reason for and/or description of interruption.

The above process and the information used for it shall at least comply with the 'TrainRunningInterruption-Message' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if a specific agreement has been concluded between the parties involved which allows the use of these standards.

4.2.17. *Handling of short term timetable data for trains*

This basic parameter lays down how Short notice Path Requests should be handled between the 'Access Party' (AP) and the infrastructure manager. These requirements are valid for all Short Notice Path Requests.

This BP does not include Traffic Management issues. The time limit between Short Term paths and Traffic Management path changes is subject to Local Agreements. It has to be possible, where short-notice transport needs are concerned (e.g. special train, additional train), to request a Short Term path. To this end, the AP requesting a Short Term path must provide the infrastructure manager with all necessary information indicating when and where a train is required to run and the data relating thereto.

No minimum time frame is specified at European level. The network statement may specify minimum time frames.

Each infrastructure manager is responsible for the suitability of a path on their infrastructure, and the railway undertaking is obliged to check the train characteristics against the values given in the details of its contracted path.

The various possible scenarios are set out below:

- Scenario A: The AP contacts all infrastructure managers involved directly (case A) or via the One Stop Shop (case B) to organise the paths for the complete journey. In this case the AP has also to operate the train on the complete journey.
- Scenario B: Each AP involved in the transport journey contacts the local infrastructure managers directly or via OSS to request a path for the journey section on which it is operating the train.

In both scenarios the allocation procedure for a Short Notice Path Request takes the form of a dialogue between AP and infrastructure manager, which contains the following messages:

- Path request message,
- Path details message,
- Path not available message,
- Path confirmed message,
- Path details refused message,
- Path cancelled message,
- Booked path no longer available message,
- Receipt confirmation message.

In the case of train movements for which a path has already been requested and issued, it is not necessary to repeat the request for a path unless delays exceeds a value that is contractually agreed between the railway undertaking and the infrastructure manager or if the train composition is changed in such a way that it renders the existing path request invalid.

The provisions of this basic parameter shall apply to path handling for all trains of the railway undertaking, but only if the parties involved use telematics applications within the meaning of Annex II to Directive 2001/14/EC of the European Parliament and of the Council ⁽¹⁾ for Short Notice Path Requests.

⁽¹⁾ OJ L 75, 15.3.2001, p. 29.

In such a case, this basic parameter shall involve the following processes:

4.2.17.1. Path Request message

This message is sent to the infrastructure manager by the AP with the following main content:

- AP making the path request,
- Path departure point: start point of path,
- Time of departure from start point of path: time for which the path is requested,
- end point of path: train's destination on path requested,
- Time of arrival at end point of path: time proposed train is to arrive at its destination,
- section of the journey requested,
- intermediate stops or any other designated points along the proposed path, indicating the Time of arrival plus the time of departure from an Intermediate Point. If this field is not completed, it means that the train does not stop at this point,
- agreed and necessary train equipment/data for section of the journey,
- maximum permissible train speed,
- maximum speed under specified train control system(s) (national and international, e.g. LZB, ETCS),
- for each traction unit: class of traction, technical variant,
- banking traction unit (class of traction, technical variant),
- driving vehicle trailer (DVT) leading,
- total length,
- total weight,
- maximum axle load,
- gross weight per meter,
- brake performance (representing brake level effective braking power),
- brake type (for the indication of usage of electromagnetic brake),
- specified train control system(s) (national and international),
- emergency brake override,
- radio system (e.g. GSM-R),
- SCs (special consignments),
- loading gauge,
- any other technical prerequisites that differ from the standard dimensions (e.g. exceptional loading gauge),
- train category,
- any other specific data required locally or nationally to process the path request,
- definitions of activities that are to be performed at a given Intermediate Point along the route,

- railway undertaking code responsible for the train movement on the current section of the journey,
- infrastructure manager code responsible for the train over the respective section of the journey,
- railway undertaking and infrastructure manager code for the next section of the train, where appropriate.

The above process and the information used for it shall at least comply with the 'PathRequestMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved that allows the use of these standards.

4.2.17.2. Path Details message

The infrastructure manager sends this message with the following main content to the requesting AP in reply to that AP's path request:

- AP making the path request,
- path departure point: start point of path,
- Time of departure from start point of path: time for which the path is requested,
- end point of path: train's destination on path requested,
- Time of arrival at end point of path: time proposed train is to arrive at its destination,
- section of the journey requested,
- intermediate stops or any other designated points along the proposed path, indicating the time of arrival plus the time of departure from an intermediate point. If this field is not completed, it means that the train does not stop at this point,
- agreed and necessary train equipment/data for section of the journey,
- maximum permissible train speed,
- maximum speed under specified train control system(s) (national and international, e.g. LZB, ETCS),
- for each traction unit: class of traction, technical variant,
- banking traction unit (class of traction, technical variant),
- driving vehicle trailer (DVT) leading,
- total length,
- total weight,
- maximum axle load,
- gross weight per metre,
- brake performance (representing brake level effective braking power),

- brake type (for the indication of usage of electromagnetic brake),
- specified train control system(s) (national and international),
- emergency brake override,
- radio system (e.g. GSM-R),
- SCs (special consignments),
- loading gauge,
- any other technical prerequisites that differ from the usual dimensions (e.g. exceptional loading gauge),
- train category,
- any other specific data required locally or nationally to process the path request,
- definitions of activities that are to be performed at a given Intermediate Point along the route,
- code of railway undertaking responsible for the train movement on the current section of the journey,
- code of infrastructure manager responsible for the train over the respective section of the journey,
- code of railway undertaking and infrastructure manager for the next section of the journey, if appropriate.

The above process and the information used for it shall at least comply with the 'PathDetailsMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if a specific agreement is concluded between the parties involved to allow the use of these standards.

4.2.17.3. 'Path Not Available' message

The infrastructure manager sends this message to the requesting AP in reply to the AP's path request in the event of no path being available:

- Path departure point: train's point of departure on the path,
- Path destination point,
- Time of departure from start point of path: time for which the path is requested,
- indication that the path is not available,
- reason for path not being available.

At the same time as this message, or as soon as possible, the infrastructure manager must send an alternative proposal without requiring any further request from the railway undertaking (Path Details message).

The above process and the information used for it shall at least comply with the 'PathNotAvailableMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved that allows the use of these standards.

4.2.17.4. Path Confirmed message

The requesting AP uses this message to book/confirm the path proposed by the infrastructure manager:

- Path Number for the purpose of identifying the path,
- Path departure point: train's point of departure on the path,
- Path destination point,
- Time of departure from start point of path: time for which the path is requested,
- End point of path: train's destination on path requested,
- Time of arrival at end point of path: time at which the proposed train is due to arrive at its destination,
- indication that the AP accepts the path proposed.

The above process and the information used for it shall be compliant at least with the 'PathConfirmedMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved allowing the use of these standards.

4.2.17.5. Path Details Refused message

The requesting AP uses this message to reject the path details proposed by the relevant infrastructure manager:

- Path Number for the purpose of identifying the path,
- Indication that the path details are being rejected,
- Reason for refusing the path or for the alteration requested by the AP,
- Path departure point: train's point of departure on the path,
- Path destination point,
- Time of departure from start point of path: time for which the path is requested,
- end point of path: train's destination on path requested,
- Time of arrival at end point of path: time at which the proposed train is due to arrive at its destination.

The above process and the information used for it shall be compliant at least with the 'PathDetailsRefused-Message' of the technical document(s):

- B.30 (see Annex III).

Other existing standards may also be used for the same purpose if there is a specific agreement between the parties involved that allows the use of these standards.

4.2.17.6. Path Cancelled message

This message is used by an AP to cancel a path it has booked:

- Path Number for the purpose of identifying the path,
- section of the journey to be cancelled,
- indication that the path is being cancelled,
- original path departure point: train's point of departure on the path,
- Path destination point,
- Time of departure from original start point of path: time for which the path was requested,
- original end point of path: train's destination on the requested path,
- Time of arrival at original end point of path: time at which the proposed train was due to arrive at its destination.

The above process and the information used for it shall be compliant at least with the 'PathCancelledMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved allowing the use of these standards.

4.2.17.7. 'Receipt Confirmation' message

This message is exchanged between infrastructure managers and APs when the required response to any of the above messages cannot be made available within 5 minutes:

- Receipt Confirmation message: indicates that its sender has received the message and will act upon it as necessary.

The above process and the information used for it shall be compliant at least with the 'ReceiptConfirmation-Message' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved that allows the use of these standards.

4.2.17.8. 'Booked Path No Longer Available' message

The infrastructure manager uses this message to let the AP know that a path which has been booked is no longer available. The path has ceased to be available for an important reason, e.g. a major disruption. Content of message:

- Path Number,
- Train number of the scheduled train for which the path is no longer available (if already known to the infrastructure manager),
- Original path departure point: train's point of departure on the path,
- Path destination point,
- Time of departure from original start point of path: time for which the path was requested,

- Original end point of path: train's destination on path requested,
- Time of arrival at original end point of path: time when the proposed train was due to arrive at its destination,
- Indication of the cause.

The above process and the information used for it shall be compliant at least with the 'PathNotAvailableMessage' of the technical document(s):

- B.30 (see Annex III).

In addition, other existing standards may be used for the same purpose if there is a specific agreement between the parties involved that allows the use of these standards.

4.2.18. *The quality of the data and information related to this TSI*

4.2.18.1. The requirements

In order to meet the requirements of this TSI, the following shall be applied as regards data and information quality throughout the whole TSI.

All those to whom this TSI is addressed shall be responsible for making available up-to-date, coherent, accurate and complete data at the appropriate time and in the appropriate format to other railway undertakings, or to infrastructure managers, or to a third party. Each actor addressed by this TSI shall be responsible for publishing up-to-date, coherent, accurate and complete information at the appropriate time and in the appropriate content to the customers (passengers), or to other railway undertakings, or to infrastructure managers, or to a third party.

Where data or information are used in order to meet the requirements of several basic parameters of this TSI at the same time, the actors to whom this TSI is addressed shall ensure that the data or information shared between those basic parameters is used in a coherent manner (e.g. coherence i) between timetable and tariff information or ii) between tariff and reservation information shall be ensured).

Where information or data are provided by several actors addressed by this TSI, the actors shall together ensure that the parts of the common data or information provided are up-to-date, coherent, accurate, complete and compatible (example: deliveries of timetable information for railway undertaking A and railway undertaking B must be coherent in order to ensure that they match at the border, etc.).

Where reference data or reference information is used in order to meet the requirements of this TSI, the actors addressed by this TSI shall guarantee the coherence between the reference data or reference information and the data or information used in the basic parameters of this TSI (examples: coherence (i) between location reference codes and train running information or (ii) between railway undertaking reference codes and fulfilment shall be ensured, etc.).

The quality of data or information provided by the actors for the purposes of this TSI shall be such that it enables the actors to whom this TSI is addressed to issue tickets as set out in Article 10 of the Regulation on Rail Passengers' Rights and Obligations.

The quality of data or information provided by the actors for the purposes of this TSI shall achieve a level which makes it possible for the actors addressed by this TSI to provide the information as set out in Article 10 and in Annex II to the Regulation on Rail Passengers' Rights and Obligations.

4.2.19. *Various reference files and databases*

4.2.19.1. Reference files

For the operation of passenger trains on the European network, the following reference files must be available and accessible to all service providers (infrastructure managers, railway undertakings, authorised third parties and station managers). The data must represent the actual status at all times.

The European Railway Agency will centrally store and maintain unique codes for the following reference data:

- reference file of the coding for all infrastructure managers, railway undertakings, station managers, service provider companies,
- reference file of the coding of locations,
- reference file of all existing train control systems,
- reference file of all different locomotive types,
- reference file of all European maintenance workshops,
- reference file for European reservation systems,
- reference file of codes for timetable exchange purposes,
- reference file of codes for tariff exchange purposes,
- message-dataset catalogue,
- directory of code list,
- any other files and code lists that are needed for the use of the technical document(s) in the annexes (these will be defined during phase one).

Where a reference file is in common use with the TAF TSI, its development and use shall be as close as possible to the implemented TAF TSI in order to achieve optimum synergies.

4.2.19.2. Additional requirements concerning databases

The additional requirements which must be supported by the various databases are listed below. They are:

1. Authentication

A database must support the authentication of users of the systems before they can gain access to the database.

2. Security

A database must support security aspects in terms of controlling access to the database. The possible encryption of the database contents itself is not required.

3. ACID

A database selected shall support the ACID principle (Atomicity, Consistency, Isolation, Durability).

4. Access control

A database must allow access to the data by users or systems that have been granted permission. The access control shall be supported down to a single attribute of a data record. The database shall support configurable, role based access control for the insertion, update or deletion of data records.

5. Tracing

A database must support the logging of all actions applied to the database to allow the detail of the data entry to be traced (Who, What, When did the contents change?).

6. Locking strategy

A database must implement a locking strategy which allows access to the data even when other users are engaged in editing records.

7. Multiple access

A database must ensure that data can be accessed simultaneously by several users and systems.

8. Reliability

The reliability of a database must support the required availability.

9. Availability

A database must have the necessary availability level for the nature of the data and the business cases based on it.

10. Maintainability

The maintainability of the database must support the required availability.

11. Safety

Databases themselves are not safety related. Hence, safety aspects are not relevant. This is not to be confused with the fact that the data — e.g. incorrect or not up-to-date data — may have an impact on the safe operation of a train.

12. Compatibility

A database must support a data manipulation language that is widely accepted, such as SQL or XQL.

13. Import facility

A database shall provide a facility that allows the import of formatted data that can be used to fill the database instead of manual input.

14. Export facility

A database shall provide a facility that allows the contents of the complete database or part thereof to be exported as formatted data.

15. Mandatory fields

A database must support mandatory fields that are required to be completed before the relevant record is accepted as input to the database.

16. Plausibility checks

A database must support configurable plausibility checks before accepting the insertion, update or deletion of data records.

17. Response times

A database must have response times that allow users to insert, update or delete data records in a timely manner.

18. Performance aspects

The reference files and databases shall support in a cost effective manner the queries necessary to allow the effective operation of all relevant train runs that are covered by the provisions of this TSI.

19. Capacity aspects

A database shall support the storage of the relevant data for all passenger wagons and/or the network. It shall be possible to extend the capacity by simple means (i.e. by adding more storage capacity and computers). The extension of the capacity shall not require replacement of the subsystem.

20. Historical data

A database shall support the management of historical data by making data available that have been already transferred into an archive.

21. Back-up strategy

A back-up strategy shall be in place to ensure that the complete database contents for a period of up to 24 hours can be recovered.

22. Commercial aspects

The database system used shall be available commercially off-the-shelf (COTS-product) or be available in the public domain (Open Source).

23. Privacy aspects

A database has to fulfil the privacy policy requirements of the Member State in which the company performing the service is domiciled.

4.2.20. *Electronic transmission of documents*

The description in Section 4.2.21 — Networking and communication — presents the communication network to be used for data exchange. This network and the described security handling allow any type of network transmission, such as e-mail, file transfer (Ftp, Http), etc. The parties involved in the information exchange can then decide on the type to choose, thereby ensuring the electronic transmission of documents, for example, via FTP.

4.2.21. *Networking and communication*

4.2.21.1. General architecture

Over time this subsystem will see the growth and interaction of a large and complex telematics rail interoperability community with thousands of participating actors (railway undertakings, infrastructure managers, third parties such as retailers and public authorities, etc.), which will compete and/or cooperate in serving the market's needs.

The network and communication infrastructure supporting such a rail interoperability community will be based on a common 'Information Exchange Architecture', known and adopted by all those participating in it.

The proposed 'Information Exchange Architecture':

- is designed to reconcile heterogeneous information models by semantically transforming the data that are exchanged between the systems and by reconciling the differences in business processes and application-level protocols,
- has a minimal impact on the existing IT architectures implemented by each actor,
- safeguards IT investments already made.

The Information Exchange Architecture favours a mostly Peer-to-Peer type of interaction between all actors, while guaranteeing the overall integrity and consistency of the rail interoperability community by providing a set of centralised services.

A Peer-to-Peer interaction model allows the best distribution of costs between the different actors, based on actual usage and, in general, will pose fewer scalability problems.

4.2.21.2. Network

The network shall ensure the necessary level for security, redundancy, traffic control, statistics tools, bandwidth growth, user accessibility and efficient management.

'Network' in this context means the method and philosophy of communication and does not refer to the physical network.

Rail interoperability is based on a common 'Information Exchange Architecture', known and adopted by all participants, thus encouraging and lowering barriers for new entrants, especially customers.

First, the central Repository is approached to obtain meta-information, such as the identity of the peer (actor) on which information is stored, or to verify security credentials. Afterwards, Peer-to-Peer communication takes place between the actors involved.

4.2.21.3. Protocols

Only protocols belonging to the Internet Protocol Suite (commonly known as TCP/IP, UDP/IP, etc.) may be used for developments.

4.2.21.4. Security

On top of the security level guaranteed at the level of the network (see Section 4.2.21.2 Network), an additional level of security can be achieved for sensitive data by using a combination of encryption, certification scheme and VPN technologies.

4.2.21.5. Encryption

Either asymmetric or symmetric encryption can be used for data transmission and storage, depending on the business requirements. For this purpose a public key infrastructure (PKI) is to be implemented.

4.2.21.6. Central repository

The central repository must be able to handle:

- metadata — structured data describing the content of messages,
- list of electronic addresses where the actors addressed by this TSI allow other actors to obtain information or data according to the provisions of this TSI,
- encryption,
- authentication,
- directory (phonebook) — it contains all necessary information on those participating in exchanging messages and data.

Where the Central Repository is in use in conjunction with the TAF TSI, development and changes shall be performed as closely as possible to the implemented TAF TSI in order to achieve optimum synergies.

4.2.21.7. Common interface for RU/IM communication

The common interface is mandatory for each actor in order to join the rail interoperability community.

The common interface has to be able to handle:

- message formatting of outgoing messages according to the metadata,
- signing and encryption of outgoing messages,
- addressing of outgoing messages,
- authenticity verification of incoming messages,
- decryption of incoming messages,
- conformity checks of incoming messages according to the metadata,
- handling the single common access to the various databases.

Each instance of the common interface will have access to all the data required according to the TSI within each railway undertaking, infrastructure manager, etc., whether the relevant databases are central or individual. Based on the results of verification of the authenticity of incoming messages, a minimum level of message acknowledgement can be implemented:

(i) positive: send ACK;

(ii) negative: send NACK.

The common interface uses the information in the Central Repository in order to manage the above tasks.

If an actor implements a local 'mirror' of the Central Repository, that actor must then — by its own means — ensure that the local 'mirror' is an accurate and up to date copy of the Central Repository.

Where the Common Interface is in common use with the TAF TSI, the development and changes shall take place as closely as possible to the implemented TAF TSI, in order to achieve optimum synergies.

4.2.22. Management of connection with other modes of transport

In order to manage the connection with other modes of transport, the following standard should be applied for the provision of information to and exchange of information with other modes of transport:

— For the exchange of timetable information between railway undertakings and other modes of transport: norms EN 12896 ('Transmodel') and EN TC 278 WI 00278207 ('IFOPT — Identification of Fixed Objects in Public transport'),

— For the exchange of specific timetable data, the XML technical standards and protocols based on Transmodel, in particular norm EN 15531 ('SIRI') for the exchange of real-time timetables and norm EN TC 278 WI 00278207 ('IFOPT') for the exchange of 'stop/station' data.

— For the exchange of tariff data: this standard is still an open point (see Annex II — List of open points).

4.3. Functional and technical specifications of the interfaces

From the standpoint of technical compatibility, the interfaces of the subsystem 'telematics applications for passenger services' with the other subsystems are as described in the following paragraphs.

4.3.1. Interfaces with the Rolling Stock Subsystem

Table 1

Interfaces with the Rolling Stock subsystem

Interface	Reference Telematics Applications for passengers TSI	Reference Conventional Rail Rolling Stock TSI's
Board device display	4.2.13 Handling of information provision in vehicle area	4.2.5 Customer information (PRM)
Automatic voice and announcement	4.2.13 Handling of information provision in vehicle area	4.2.5 Customer information (PRM) 4.2.5.2 Public address system

4.3.2. *Interfaces with the Telematics Applications for Freight Subsystem*

Table 2

Interfaces with the Telematics Applications for Freight subsystem

Interface	Reference Telematics Applications for passengers TSI	Reference Conventional Rail Telematics Applications for Freight TSI
Train ready	4.2.14.1 Train ready message for all trains	4.2.3.5 Train ready message
Train running forecast	4.2.15.2 'Train running forecast' message for all trains	4.2.4.2 Train running forecast message
Train running information	4.2.15.1 'Train running information' message for all trains	4.2.4.3 Train running information
Train running interrupted to RU	4.2.16.2 'Train running interrupted' message for all trains	4.2.5.2 Train running interrupted
Handling of short term timetable data	4.2.17 Handling of short term timetable data for trains	4.2.2 Path Request
Common Interface	4.2.21.7 Common interface for RU/IM communication	4.2.14.7 Common interface for RU/IM communication
Central Repository	4.2.21.6 Central repository	4.2.14.6 Central repository
Reference Files	4.2.19.1 Reference files	4.2.12.1 Reference files

4.4. **Operating rules**

In the light of the Essential Requirements in Chapter 3, the operating rules specific to the subsystem concerned by this TSI are as follows:

4.4.1. *Data quality*

For the purposes of data quality assurance, the originator of any TSI message will be responsible for the correctness of the data content of the message at the time when the message is sent. Where the source data for data quality assurance purposes are available from the databases provided as part of the TSI, the data contained within those databases must be used for data quality assurance.

Where the source data for data quality assurance purposes is not supplied by the databases provided as part of this TSI, the originator of the message must carry out the data quality assurance check from their own resources.

Data quality assurance will include comparison with data from databases provided as part of this TSI as described above, plus — where applicable — logic checks to assure the timeliness and continuity of data and messages.

Data are of high quality if they are fit for their intended uses, which means that they:

- are error-free: accessible, accurate, timely, complete, consistent with other sources, etc.,
- possess the desired features: relevant, comprehensive, proper level of detail, easy-to-read, easy-to-interpret, etc.

The main characteristics of data quality are:

- accuracy,
- completeness,
- consistency,
- timeliness.

Accuracy

The information (data) required needs to be captured as economically as possible. This is only feasible if the Primary Data only are recorded, if possible, on one single occasion. Therefore, the Primary Data should be introduced into the system as close as possible to its source, so that they can be fully integrated into any subsequent processing operation.

Completeness

Before sending out messages, the completeness and syntax must be checked using the Metadata. This also avoids unnecessary information traffic on the network.

All incoming messages must also be checked for completeness using the Metadata.

Consistency

Business rules must be implemented in order to guarantee consistency. Double entry should be avoided and the owner of the data should be clearly identified.

The type of implementation of these business rules depends on their complexity. For simple rules, database constraints and triggers are sufficient. In the case of more complex rules, which require data from various tables, validation procedures must be implemented which check the consistency of the data version before interface data are generated and the new data version becomes operational. It must be ensured that transferred data are validated against the defined business rules.

Timeliness

Providing information right on time is important. Insofar as the trigger for data storage or for message sending is event driven directly from the IT system, timeliness is not a problem if the system is designed properly and according to the needs of the business processes. However, in most cases, the sending of a message is initiated by an operator or is at least based on additional input from an operator. To fulfil the timeliness requirements, the data must be updated as soon as possible, also in order to guarantee that the actual data content of the messages is current when these messages are sent out automatically by the system.

The response time for enquiries must be addressed for the various applications and user types within the detailed IT specifications. All data updates and exchanges shall be carried out as soon as possible.

Data quality metrics

The detailed IT specifications shall define appropriate percentages for:

- the completeness of data (percent of data fields having values entered into them) and the consistency of data (percent of matching values across tables/files/records),
- the timeliness of data (percent of data available within a specified threshold time frame),
- the required accuracy (percent of stored values that are correct when compared to the actual value).

4.4.2. *Operating the central repository*

The functions of the Central Repository are defined in Section 4.2.21.6 Central repository. For the purpose of data quality assurance, the entity operating the Central Repository shall be responsible for the updating and quality of the Metadata and the directory, and also for the administration of the access control. The quality of the Metadata in terms of completeness, consistency, timeliness and accuracy shall enable appropriate functioning for the purposes of this TSI.

4.5. **Maintenance rules**

In the light of the Essential Requirements in Chapter 3, the maintenance rules specific to the subsystem concerned by this TSI are as follows:

The quality of the transport service must be guaranteed, even if the data were corrupted or if the data processing equipment were to suffer a complete or partial breakdown. It is therefore advisable to install duplex systems or computers with a particularly high degree of reliability, and for which uninterrupted operation during maintenance is ensured.

The maintenance aspects of the various databases are mentioned in Section 4.2.19.2 — Additional requirements on the databases, points 10 and 21.

4.6. **Professional qualifications**

The professional qualifications of the staff required to operate and maintain the subsystem and for implementing the TSI are as follows:

The implementation of this TSI does not require a complete new system in terms of hardware and software with new staff. Achieving the requirements of the TSI results only in those changes, upgrades or functional enlargements of the operation which are already being made by the existing staff. Therefore, there are no requirements in addition to the existing national and European rules on professional qualifications.

If necessary, add-on training of staff should not consist solely of showing them how to operate equipment. Staff members must know and understand the specific role they have to play in the overall transportation process. Staff must, in particular, be aware of the requirement to maintain a high level of working performance, since this is decisive for the reliability of the information which is to be processed at a later stage.

The professional qualifications needed for the composition and operation of trains are defined in the TSI for Operation and Traffic Management.

4.7. **Health and safety conditions**

The health and safety conditions of staff required for the operation and maintenance of the subsystem concerned and for the implementation of the TSI are as follows:

There are no requirements in addition to existing national and Union health and safety rules.

4.8. **Registers of authorised types of vehicles and of infrastructure**

Pursuant to Article 34(1) of Directive 2008/57/EC, 'The Agency shall set up and keep a register of types of vehicles authorised by the Member States for placing in service on the Community rail network'. Pursuant to Article 35(1) of Directive 2008/57/EC, 'Each Member State shall ensure that a register of infrastructure is published and updated'.

Due to the annual updating and publication of these registers they cannot be used for the Telematics Applications subsystem for passengers. Therefore, this TSI has nothing to do with these registers.

5. INTEROPERABILITY CONSTITUENTS

5.1. **Definition**

According to Article 2(f) of Directive 2008/57/EC, 'interoperability constituents' means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem, upon which the interoperability of the rail system depends directly or indirectly. The concept of a 'constituent' covers both tangible objects and intangible objects such as software'.

5.2. **List of constituents**

The interoperability constituents are covered by the relevant provisions of Directive 2008/57/EC.

No interoperability constituents are determined as far as the subsystem 'Telematics applications for passengers' is concerned.

Only standard IT equipment is needed in order to fulfil the requirements of this TSI, without any specific aspects for interoperability in the railway environment. This is valid both for hardware components and for the standard software used, such as the operating system and databases. The application software is individual to each user and can be adapted and improved according to the individual's actual functionality and needs. The proposed 'application integration architecture' assumes that applications might not have the same internal information model. Application integration is defined as the process of making independently designed application systems work together.

5.3. **Constituents' performances and specifications**

See Section 5.2, not relevant for the TSI Telematics Applications for passenger services.

6. ASSESSMENT OF CONFORMITY AND/OR SUITABILITY FOR USE OF THE CONSTITUENTS AND VERIFICATION OF THE SUBSYSTEM

6.1. **Interoperability constituents**

6.1.1. *Assessment procedures*

Not relevant for the TSI Telematics Applications for passenger services.

6.1.2. *Module*

Not relevant for the TSI Telematics Applications for passenger services.

6.2. **Subsystem Telematics Applications for passenger services**

According to Annex II to Directive 2008/57/EC, the subsystems are broken down into structural and operational areas. The conformity assessment is obligatory for TSIs in the structural area. The subsystem Telematics Applications for passenger services belongs to the functional area and this TSI does not determine any modules for conformity assessment.

7. IMPLEMENTATION

7.1. **Introduction**

This TSI concerns the subsystem telematics applications for passenger services. This subsystem is functional according to Annex II to Directive 2008/57/EC. The application of this TSI therefore does not rely on the notion of new, renewed or upgraded subsystem, as is customary in the case of TSIs related to structural subsystems, except where it is specified in the TSI.

The TSI will be implemented in phases:

- phase one: detailed IT specifications, governance and master plan,
- phase two: development,
- phase three: deployment.

7.2. **Phase one — detailed IT specifications, governance and master plan**

Phase one has three objectives:

1. To define the data exchange system (hereinafter referred to as 'the system') consisting of common components and of the interconnection of information and communication systems of stakeholders able to fulfil the requirements of this Regulation.
2. To confirm such a system from the viewpoint of technical and economic feasibility.
3. To draw up a roadmap of the activities deemed necessary in order to implement the system, including appropriate milestones for the monitoring of the progress of its implementation by the Commission, the European Railway Agency, the Member States and the stakeholders concerned.

7.2.1. *Project governance of Phase one*

The Commission shall establish a steering committee not later than 1 month after the publication of this Regulation in the *Official Journal of the European Union*, which shall consist of:

- the representative bodies from the railway sector acting on a European level as defined in Article 3(2) of Regulation (EC) No 881/2004 (the rail sector representative bodies),

- a representative of ticket vendors,
- a representative of European passengers,
- the European Railway Agency, and
- the Commission.

This steering committee shall be co-chaired by (a) the Commission and (b) a person nominated by the rail sector representative bodies. The Commission assisted by the members of the steering committee shall draft the rules of procedure of this steering committee, on which the steering committee shall agree. The decisions taken shall be transparent and shall be accompanied by a sound technical and economic justification.

The members of the steering committee may propose to the steering committee that other organisations be included as observers where there are sound technical and organisational reasons for doing so.

7.2.2. *Roles and responsibilities*

7.2.2.1. Stakeholders

1. A project team established by the rail sector representative bodies and including a ticket vendor representative shall develop the detailed IT specifications, the governance and the master plan on the basis of a work programme to be approved by the steering committee.
2. The project team shall set up the necessary working groups bringing in expertise from the European Railway Agency, railway undertakings, infrastructure managers, station managers, ticket vendors workers' representatives and passenger representatives.
3. The project team shall conduct the whole project transparently, and all minutes, documents and deliverables of the project team and its working groups shall be made permanently and fully accessible to the Commission and the European Railway Agency.
4. The project team shall send monthly progress reports to the steering committee and shall take full account of the latter's decisions. The structure and content of the progress report shall be approved by the steering committee at the kick-off meeting.
5. The project team shall provide information to railway undertakings, infrastructure managers, station managers, ticket vendors and passenger representatives, and shall consult them. It shall pay particular attention to small railway undertakings and railway undertakings that are not members of rail sector representative bodies, and shall keep them informed and consult them.
6. Railway undertakings, infrastructure managers, station managers, ticket vendors and passengers' representatives shall support the project by providing information, and functional and technical expertise, as and when requested by the project team.

7.2.2.2. European Railway Agency

1. The European Railway Agency shall monitor and assess the development of the detailed IT specifications, governance and master plan with a view to determining whether the objectives pursued have been achieved.
2. The European Railway Agency shall submit to the Commission a recommendation on the detailed IT specifications, governance and master plan.

7.2.2.3. Commission

1. The Commission shall indicate to the project team the list of bodies to be involved in the project.

2. Upon reception of the detailed IT specifications, governance and master plan, the Commission shall assess them on the basis of the recommendation of the European Railway Agency and, in the light of this assessment, shall take the necessary measures to amend the current TSI.
3. The Commission will keep the Member States informed via the committee established in accordance with Article 29(1) of Directive 2008/57/EC.

7.2.3. Deliverables

The detailed IT specifications shall describe the system and shall indicate in a clear and unambiguous manner how the system fulfils the requirements of the TAP TSI. The development of such specifications requires a systematic analysis of the relevant technical, operational, economic and institutional issues that underpin the process of implementing the TAP TSI. Therefore, deliverables shall include, but shall not be limited to, the following:

1. Functional, technical and performance specifications, the associated data, the interface requirements, the security and the quality requirements.
2. The outline of the global architecture of the system. It shall describe how the requisite components interact and fit together. This shall be based on the analysis of the system configurations capable of integrating the legacy IT facilities, while delivering the required functionality and performance.

The master plan shall include:

1. The identification of the activities necessary to achieve the implementation of the system.
2. A migration plan which includes a set of phases that is conducive to intermediate and verifiable tangible results, from the current framework of stakeholders' information and communication systems to the system itself.
3. A detailed milestone plan.
4. A risk assessment of the crucial phases of the master plan.
5. An assessment of the total lifecycle costs (LCC) associated with the deployment and operation of the system, together with a subsequent investment plan and the relevant cost-benefit analysis.

The governance shall include the identification of the appropriate governance structures, methods and procedures to support the development and validation of the system and subsequently its deployment and its field operation and management throughout its lifetime (including dispute management between the parties involved under the provisions of this TSI).

7.2.4. Milestones

1. A kick-off meeting between the project team and the steering committee shall take place not later than 2 months after the publication of this Regulation in the *Official Journal of the European Union*.
 - (a) At the kick-off meeting, the project team shall present a project description and a project work programme including a timetable. The project description shall explain the understanding of the tasks, the project organisation, the roles and responsibilities and the project method, including the process of consulting and informing all stakeholders.
 - (b) At the kick-off meeting, the content and level of detail of the intermediate report and of the monthly progress report referred to in Section 7.2.2.1 will be discussed and agreed between the project team and the steering committee.

2. The project team shall submit the intermediate report to the steering committee not later than 5 months after the kick-off meeting.
3. The deliverables shall be submitted to the Commission and the European Railway Agency not later than 10 months after the kick-off meeting.
4. The European Railway Agency shall submit a recommendation on deliverables submitted to the Commission not later than 2 months after receiving them.

7.3. **Phase 2 — Development**

All actors concerned shall develop the system following the amendment of the present TSI.

7.4. **Phase 3 — Deployment**

All actors concerned shall deploy the system following the amendment of the present TSI.

7.5. **Change Management**

7.5.1. *Change Management Process*

Change management procedures shall be designed to ensure that the costs and benefits of change are properly analysed and that changes are implemented in a controlled way. These procedures shall be defined, put in place, supported and managed by the European Railway Agency and shall include:

- the identification of the technical constraints underpinning the change,
- a statement of who takes responsibility for the change implementation procedures,
- the procedure for validating the changes to be implemented,
- the policy for change management, release, migration and roll-out,
- the definition of the responsibilities for the management of the detailed specifications and for both its quality assurance and configuration management.

The Change Control Board (CCB) shall be composed of the European Railway Agency, rail sector representative bodies, a ticket representative body, a passenger representative body and Member States. Such an affiliation of the parties shall ensure a perspective on the changes that are to be made and an overall assessment of their implications. The CCB ultimately shall be brought under the aegis of the European Railway Agency.

7.5.2. *Specific Change Management Process for technical documents published by the European Railway Agency*

Technical documents quoted in Chapter 4 of this TSI (except for the standards which are linked to open issues) and listed in Annex III to this Regulation are technical documents published by the European Railway Agency pursuant to Article 5(8) of Directive 2008/57/EC.

The change control management for these technical documents shall be established by the European Railway Agency in accordance with the following criteria:

1. The change requests affecting the technical documents are submitted either via the National Safety Authorities (NSA), or via the representative bodies from the railway sector acting on a European level as defined in Article 3(2) of Regulation (EC) No 881/2004, or the ticket vendors' representative, or via the body which originally developed the specifications that were the forerunners of the technical documents.
2. The European Railway Agency shall gather and store the change requests.

3. The European Railway Agency shall present change requests to the dedicated ERA working party, which will evaluate them and prepare a proposal accompanied by an economic evaluation, where appropriate.
4. Afterwards the European Railway Agency shall present the change request and the associated proposal to the change control board that will or will not validate or postpone the change request.
5. If the change request is not validated, the European Railway Agency shall send back to the requester either the reason for the rejection or a request for additional information about the draft change request.
6. If the change request is validated, the technical document shall be amended.
7. Prior to the publication of the modified technical document, it shall be communicated to the Commission together with the change request and its economic evaluation.
8. The Commission will keep the Member States informed via the committee established in accordance with Article 29(1) of Directive 2008/57/EC.
9. The new version of the technical document and the validated change request shall be made available at the site of the European Railway Agency.

Where change control management affects elements which are in common use within the TAF TSI, the changes shall be made so as to remain as close as possible to the implemented TAF TSI in order to achieve optimum synergies.

7.6. Specific cases

7.6.1. Introduction

The following special provisions are permitted in the specific cases below:

- (a) 'P' cases: permanent cases;
- (b) 'T' cases: temporary cases, where it is recommended that the target system is reached by 2020 (an objective set out in Decision No 1692/96/EC of the European Parliament and Council of 23 July 1996 on Community guidelines for the development of the trans-European transport network ⁽¹⁾, as amended by Decision No 884/2004/EC ⁽²⁾).

7.6.2. List of specific cases

There are no specific cases indicated for this TSI.

8. GLOSSARY

The definitions in this glossary refer to the use of terms in this TSI.

Term	Description
Access party	Means either a licensed railway undertaking or, to the extent authorised by each Member State, another party seeking to procure a train path in the working timetable for the operation of railway service on its territory with commercial or public-service intent. Examples of such authorised parties may be public authorities, or any other party having an access contract or an international group of such parties, which is also known as an applicant group or access party group

⁽¹⁾ OJ L 228, 9.9.1996, p. 1.

⁽²⁾ OJ L 167, 30.4.2004, p. 1.

Term	Description
ACID	<p>Stands for Atomicity, Consistency, Isolation, Durability</p> <p>These are the four primary attributes common to any transaction:</p> <p>Atomicity. In a transaction involving two or more discrete pieces of information, either all of the pieces are committed or none are</p> <p>Consistency. A transaction either creates a new and valid state of data or, if any failure occurs, returns all data to the state before the transaction was started</p> <p>Isolation. A transaction in process and not yet committed must remain isolated from any other transaction</p> <p>Durability. Committed data are saved by the system so that, even in the event of a failure and system restart, the data are available in their correct state</p> <p>The ACID concept is described in ISO/IEC 10026-1:1992 Section 4. Each of these attributes can be measured against a benchmark. In general, however, a transaction manager or monitor is designated to implement the ACID concept. In a distributed system, one way to achieve ACID is to use a two-phase commit (2PC), which ensures either that all involved sites must commit to completing the transaction or that none do, and the transaction is rolled back</p>
Arrival date/time, actual	Means the actual date (And time) of arrival of means of transport
Arrival date/time, estimated	Means the date (And time) of arrival of means of transport based on the current forecast
Arrival date/time, planned	Means the date (And time) of arrival of means of transport in the timetable
Arrival delay, expected	Means the time difference between the arrival date/time Estimated and the arrival date/time Planned
Arrival delay, actual	Means the time difference between the arrival date/time actual and the arrival date/time Planned
At the discretion of	Means that the railway undertaking can decide based on its experience and its needs
Attributing system	Means an electronic system hosting the catalogue of transport services for which a transport service provider authorises distributors to issue travel documents
Attributor	Means a company managing an attributing system. May be a carrier
Authorised Public Body	Means a public authority having a statutory obligation or right to provide members of the public with travel information and also refers to the public authority which is responsible for the enforcement of Regulation (EC) No 1371/2007 pursuant to Article 30(1) of the Regulation
Availability	Means the information (transport service, type of offer, tariff, other service) that can actually be obtained by a passenger at a given point in time, for a specific train. Not to be confused with offer, indicating that a (transport service, type of offer, tariff, other service) is offered in the initial planning, but could be sold out and is therefore not obtainable by a passenger at a given time point, for a specific train
Basic parameter	Means any regulatory, technical or operational condition which is critical to interoperability and requires a decision in accordance with the procedure laid down in Article 21(2) before any development of draft TSIs by the joint representative body
Booking (selling)	Means the selling of a ticket with or without a reservation
Carrier	Means the contractual railway undertaking with whom the passenger has concluded a transport contract or a series of successive railway undertakings which are liable on the basis of such a contract

Term	Description
Carrier, Joint	Means a carrier linked by a cooperation agreement to one or more other carriers for the operation of a transport service
Carrier, Sole	Means a carrier that operates a transport service independently of other carriers
Channel	Means the method (such as ticket office machine, on-train media, public web services, telesales, mobile ticketing) by which a service (information, ticket sale, ticket refund, response to complaints, etc.) is provided to the passenger by a railway undertaking
Coach ID	Means the unique identification number of a coach
Commission	Means the European Commission
COTS-product	Means commercial off-the-shelf products
Customer	Means a person who intends to buy, is buying, or has bought a railway product for him/herself or for other person(s). May therefore be different from passenger (see passenger)
Decryption	Means the converting of encrypted data back into their original form
Delay	Means the time difference between the time the passenger was scheduled to arrive according to the published timetable and the time of his/her actual or expected arrival
Delta deviation	Means the operational 'lateness or earliness' in relation to the booked scheduled time
Departure date/time, actual	Means the actual date (And time) of departure of means of transport
Departure date/time, estimated	Means the date (And time) of departure of means of transport based on current forecast
Departure date/time, planned	Means the date (And time) of departure of means of transport in the timetable
Directive 2008/57	Means Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community
Departure delay, actual	Means the time difference between the actual departure date/time and the Planned departure date/time
Departure delay, expected	Means the time difference from the departure date/time and the expected departure date/time
Display	Means any dynamic visual device located either in Stations or on the inside/outside of trains for the purpose of informing passengers
Distributor	Means an undertaking providing legal and technical capacity to issuers to sell rail products or to provide on line-facilities to customers to buy rail products. Besides, the distributor can offer services to issuers by assembling O-Ds carried out by different carriers into complete journeys as required by the traveller. The distributor may be a carrier
Domestic journey	Means a passenger journey by rail whereby a passenger does not cross a border of a Member State
Domestic rail passenger service	Means a rail passenger service which does not cross a border of a Member State
Encryption	Means the encoding of data
ERA	See European Railway Agency

Term	Description
Essential requirements	Means all the conditions set out in Annex III to Directive 2008/57/EC which must be met by the trans-European rail system, the subsystems, and the Interoperability Constituents including interfaces
ETA	Means the Estimated time of arrival (of the train at the station)
ETH	Means the Estimated time of Handover (of a train from one infrastructure manager to another)
ETI	Means the Estimated time of Interchange (of the train from one railway undertaking to another)
European Railway Agency	Means the Agency established pursuant to Regulation (EC) No 881/2004/EC of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency
Fare	Means a charge to be paid for transportation or service
Forecast	Means the best estimate of an event (e.g. arrival, departure or passing time of a train)
Forecast point	Means a target point for which the forecast is generated. It may relate to arrival, departure, passage or handover
Foreign rail passenger service	Means a rail passenger service which was purchased by the passenger in a country, but is performed in a country different from the country of purchase
Foreign sale	Means the sale of a train ticket by an issuer which is not (one of) the carrier(s) operating the train where the ticket will be used. The issuer is located in a country different from the country of the carrier(s)
FTP	Means the File Transfer Protocol A protocol to transfer files between computer systems in the TCP/IP network
Fulfilment	Means the process which delivers the Product to the customer after its purchase
General Conditions of Carriage	Means the conditions of the carrier in the form of general conditions or tariffs legally in force in each Member State and which have become, through the conclusion of the contract of carriage, an integral part of it
Global price train	Means a train that a passenger can board only having purchased a global price ticket
Handover point	Means the point where the responsibility changes from one infrastructure manager to another
HTTP	Means the Hypertext Transfer Protocol The client/server protocol used to connect to servers on the Web
IM	Means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a corridor or part of a corridor may be allocated to different bodies or undertakings
Infrastructure manager (IM)	See IM
Integrated Reservation Tickets — IRT	Means a kind of train ticket restricted to a specific train on a specific date/time. A IRT ticket can only be sold by means of an online transaction between the sales terminal and the attributing system where the relevant train is hosted

Term	Description
Interchange between Carriers	Means the transfer of control from one railway undertaking to another for practical operational, safety and liability reasons. Examples are: <ul style="list-style-type: none"> — successive railway undertakings, — trains with substitute carriers, — the transfer of information between different railway undertakings
Interchange point	Means the location where the control of the train is transferred from one railway undertaking to another railway undertaking Regarding a train running, the train is taken over from one railway undertaking by the other railway undertaking, which now owns the path for the next section of the journey
Intermediate point	Means the location which defines the start or end point of a journey section. This may be an interchange, handover or handling point, for example
International rail passenger service	Means a rail passenger service which crosses a border of at least one Member State
International journey	Means a passenger journey by rail crossing the border of at least one Member State
International sale	Means the sale of a train ticket for an international journey
Interoperability constituent	Means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem upon which the interoperability of the trans-European rail system directly or indirectly depends. The concept of a constituent covers both tangible objects and intangible objects, such as software
IP	Means the Internet Protocol
Issuer	Means an undertaking selling the ticket and receiving payment. May be a carrier and/or a distributor. The issuer is the undertaking indicated on the ticket with its code and possibly its logo
Journey	Means the movement of a passenger (or several passengers travelling together) from a location A to a location B
Journey planner	Means an IT system able to propose journey solutions A journey solution is a set of one or more commercial transport services answering at least the question 'How can I go from location A to location B at a given departure/arrival date And time?'. The question could contain more complex additional criteria, such as 'in the fastest way', 'in the cheapest way', 'with no changes', etc. The passenger can build the journey solutions by him/herself, consulting different information sources, or the solution can be offered to him/her by a journey Planner
Keeper	Means the person who, being the owner of a vehicle or having the right to use it, exploits such vehicle economically in a permanent manner as a means of transport and is registered as such in the Rolling Stock Register
Loco ID	Means the unique identification number of a traction unit
Make available	Means the publishing of information or data where access control may be applied
Manifest on list	Means a fulfilment method where the customer makes its purchase in advance (e.g. at home) and receives only a confirmation, usually with a reference code. The undertaking performing this kind of sale provides the TCO with a list of all passengers (and reference codes) admitted on the specific train. The passenger simply manifests his/her desire to be admitted on the train before/after departure at the TCO. TCO checks whether the passenger is allowed to embark/stay on the train

Term	Description
Market price	See Global price
Metadata	This term simply means data about data. It describes data, software services, and other components contained in the enterprise information systems. Examples of the types of Metadata include standard data definitions, location and routing information, and synchronisation management for distributing shared data
Notified bodies	Means the bodies which are responsible for assessing the conformity or suitability for use of the Interoperability Constituents or for appraising the EC procedure for verification of the subsystems
NRT train	Means a train that a passenger can board having bought a NRT ticket, in the case of international or foreign sales
NRT	Non-integrated reservation tickets — This is a way of selling train tickets meant for international or foreign sales, where the issuer can produce the ticket locally, without any online transaction with an attributing system. The NRT tickets are always open tickets, i.e. the contract of carriage is valid on any NRT train serving the route marked on the ticket, within a defined validity period. To issue a NRT ticket the issuer needs a list of OD's (series) and one or more tables of prices corresponding to distance ranges. Reservations can (in some cases must) be purchased together with the ticket
Offer	See availability
Official website	Means the company's public website where commercial information is released to the customer. The website shall be machine readable by respecting web content accessibility guidelines
One stop shop	An international partnership between rail infrastructure managers providing a single point of contact for rail customers for the purposes of: ordering specified train paths in international freight traffic, monitoring the movement of the entire train, generally also invoicing track access charges on behalf of infrastructure managers
Passenger	Means a person who intends to make, or is making, or has made a journey using the transport services and other services of one or more railway undertakings May be different from customer (see customer)
Path	Means the infrastructure capacity needed to run a train between two places over a given time-period (route defined in time and space)
Path number	Means the number of the defined train path
Payment	Means the transfer of wealth from one party (such as a customer) to another (such as a distributor). A payment is usually made in exchange for the provision of transport or service
Peer-to-Peer	Means a class of systems and applications that employ distributed resources to perform a critical function in a decentralised manner
Person with reduced mobility (PRM)	Means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotory, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or as a result of age, and whose situation needs appropriate attention and adaptation to its particular needs of the service made available to all passengers
Platform	Means the area at a station to alight from/board trains
Primary data	Means the basic data as reference data input for messages or as the basis for functionality and calculation of derived data
PRM	See Person with reduced mobility

Term	Description
Product	Means a type of train with determined types of services (e.g. high speed, bicycle storage places, PRM accommodation, couchette and/or sleeping cars, dining cars, take-away facilities, etc.) which are linked to relevant prices and may be linked to specific conditions
Publish	Means the publishing of information or data where no access control shall be applied
Rail system	Means (as in 'trans-European rail system') the structure, as described in Annex I (Directive 2008/57/EC), composed of lines and fixed installations, of the trans-European transport network, built or upgraded for conventional rail transport and combined rail transport, plus the rolling stock designed to travel on that infrastructure
Railway undertaking	Means any public or private undertaking the principal business of which is to provide services for the transport of goods and/or passengers by rail, with a requirement that the undertaking must ensure traction; this also includes undertakings which provide traction only
Regular vs. Short Term processes	Regular means a process when performed within a period which is equal to or more than 7 days Short term means a process when performed within a period which is less than 7 days
Reporting point	Means either passing points used by an infrastructure manager to provide train running information (only) or points where forecasts are generated
Repository	Means the storage of data similar to a database and data dictionary; however, it usually encompasses a comprehensive information management system environment. It must include not only descriptions of data structures (i.e. entities and elements), but also Metadata of interest to the enterprise, data screens, reports, programs, and systems
Reservation	Means an authorisation on paper or in electronic form giving entitlement to a service (transportation or assistance) subject to a previously confirmed personalised transport arrangement
Reservation system	Means a computerised system used to store and retrieve information and conduct transactions related to travel. A reservation system is capable of keeping inventory correct in real time, and is accessible to agents/retailers around the world
Retailer	Means a person or an undertaking that sells to the customer a ticket without or with a reservation for a rail service. A retailer can be a railway undertaking (agent) or an accredited travel agent
Route	Means the geographical line to be taken from a starting point to a point of destination
Route section	Means a part of a route
RU	See Railway undertaking
Selling	See Booking
Service	See Transport service
Service provider	Means the responsible entity providing any services linked to the transport of passengers
Shall	Means that the definition is an absolute requirement of the specification
Short Term processes	See Regular vs. Short Term processes

Term	Description
Short notice path request	Means the individual request for a path according to Article 23 of Directive 2001/14/EC due to additional transport demands or operational needs
SQL	Means Structured Query Language A language devised by IBM, then standardised by ANSI and ISO, which is used for creating, managing and retrieving data in relational databases
Stakeholders	Means any person or organisation with a reasoned interest in train service delivery e.g.: — Railway undertaking, — Locomotive provider, — Coach provider, — Driver/train crew provider, — Infrastructure manager (IM), — Fleet manager, — Ferry boat operator, — Worker, — Ticket vendor, — Passenger
Station	Means a railway location where a passenger train can start, stop or end
Station manager	Means an organisational entity in a Member State, which has been made responsible for the management of a railway station and which may be the infrastructure manager
Substitute carrier	Means a railway undertaking, which has not concluded a transport contract with the passenger, but to whom the railway undertaking that is party to the contract has entrusted, in whole or in part, the performance of the transport by rail
Tariff	Means a specific set of fares available on a given train, on a given day for a given O-D leg of the journey. Tariffs may be grouped in different categories (such as public fares, Group fares, etc.)
TCO	Means Ticket Controlling Organisation. This is an organisation empowered to inspect passenger tickets. Mostly a carrier. If necessary, the TCO is to deliver security certificates for the International Rail Ticket for Home Printing (IRTHP) to the distributors
Technical Document	Means any technical document published by the European Railway Agency pursuant to Article 5(8) of Directive 2008/57
Technical Specification for Interoperability	Means a specification adopted in accordance with Directive 2008/57/EC by which each subsystem or part subsystem is covered in order to meet the Essential Requirements and ensure the interoperability of the rail system
TETA	See train Estimated time of arrival
Third party	Means any public or private undertaking, which is not a railway undertaking or infrastructure manager and provides services ancillary to, or in connection with, the services/transport services
Through ticket	Means a ticket or tickets representing a transport contract for successive railway services operated by one or more railway undertakings
Ticket	Means a material or immaterial registration entitling a passenger to contractually use one or more commercial transport services offered by one or more railway undertakings
Ticket On departure	Means a fulfilment method where the customer makes its purchase in advance (e.g. at home) and collects the ticket in the departure Station, at a ticket counter or vending machine

Term	Description
Ticket vendor	Means any retailer of rail transport services concluding transport contracts and selling tickets on behalf of a railway undertaking or for its own account
Timetable	Means the list of commercial transport services offered by a railway undertaking during a given time interval
TOD	See Ticket On Departure
Tour Operator	Means an organiser or retailer, other than a railway undertaking, within the meaning of Article 2, points (2) and (3) of Directive 90/314/EEC
Train Estimated time of Arrival	Means the Estimated time of arrival of a train at a specific point, e.g. handover point, interchange point, train destination
Train path	Means the train route defined in time and space
Train running interrupted	Means that the continuation of the train is unknown based on local circumstances at the time and in the opinion of the parties involved. If the Delay is known, the infrastructure manager sends a train running forecast message
Trans-European rail network	Means the rail network as described in Annex 1 to Directive 2008/57/EC
Transport contract	Means a contract of carriage for consideration or free of charge between a railway undertaking or a ticket vendor and the passenger for the provision of one or more transport services
Transport mode	Means a generic type of vehicle capable of transporting passengers (train, plane, bus, etc.)
Transport service	Means a commercial transport service or transport service under public service contract linking two or more locations, offered by a railway undertaking according to a published timetable. A transport service is normally performed with a specific transport mode
Transport service provider	Means any private or public company authorised to transport people in domestic or international passenger traffic. A 'transport service provider' accepts travel documents issued by the accredited sales points of its distributors. It plays the role of the contractual carrier with which the passenger has entered into a contract of carriage. Execution of the transport service may be entrusted, in part or in full, to a substitute carrier
TSI	See Technical Specification for Interoperability
XML	Means the Extended Mark-up Language
XQL	Means the Extended Structured Query Language

ANNEX II

LIST OF OPEN POINTS

In accordance with Article 5(6) of Directive 2008/57/EC, the following open points are identified:

Section	Open points
4.2.2.1.	Technical document on the process and the information used for it in respect of tariff data intended for domestic sales
4.2.10.	Standard for the handling of security elements for product distribution
4.2.11.2	Standard for European "Ticket On Departure" and for European "Manifest On List"
4.2.11.3	Technical document or standard on direct fulfilment methods which are linked to the ticket and/or reservation and to the kind of media for domestic sales
4.2.11.4	Technical document or standard on indirect fulfilment methods which are linked to the ticket and/or reservation and to the kind of media for domestic sales
4.2.22	Standard for the exchange of fare information in the context of connection with other modes of transport

ANNEX III

LIST OF TECHNICAL DOCUMENTS REFERENCED IN THIS TSI

Reference	Label
B.1. (V1.1)	Computer generation and exchange of tariff data meant for international or foreign sales – NRT tickets
B.2. (V1.1)	Computer generation and exchange of tariff data meant for international and foreign sales – Integrated Reservation Tickets (IRT)
B.3. (V1.1)	Computer generation and exchange of data meant for international or foreign sales – Special offers
B.4. (V1.1)	Implementation guide for EDIFACT messages covering timetable data exchange
B.5. (V1.1)	Electronic reservation of seats/berths and electronic production of travel documents – Exchange of messages
B.6. (V1.1)	Electronic seat/berth reservation and electronic production of transport documents (RCT2 standards)
B.7. (V1.1)	International Rail ticket for Home Printing
B.8. (V1.1)	Standard numerical coding for railway undertakings, infrastructure managers and other companies involved in rail-transport chains
B.9. (V1.1)	Standard numerical coding of locations
B.10 (V1.1)	Electronic reservation of assistance for persons with reduced mobility – Exchange of messages
B.30. (V1.1)	Schema – messages/datasets catalogue needed for the RU/IM communication of TAP TSI

ANNEX IV

LIST OF TARIFFS MEANT FOR INTERNATIONAL OR FOREIGN SALES**C.1. NRT Tariffs**

The main content of NRT tariff data shall be:

- Series,
- Products,
- Services,
- Carrier codes,
- Fare tables,
- Station list,

NRT tariffs shall be made available in advance at least 3 months before the tariffs enter into force.

C.2. IRT Tariffs

The main content of IRT tariff data shall be:

- tariffs,
- tariff ranges,
- Cards used with market prices,
- Exclusion types,
- Sales conditions,
- After sales conditions,
- Fare tables,
- Station/zone list,

IRT tariffs shall be made available in advance according to their sales conditions.

C.3. Special Tariffs

The main content of the special tariff data shall be:

- The offer and its conditions,
- Fares,
- Supplements,
- Authorisations,
- Number of passengers/accompanying passengers and their categories,
- Reduction types,
- Exclusion types,
- Sales conditions,
- After-sales conditions,

- Reservation fees,
- Series,
- Trains including their categories and facilities,

Special tariffs shall be made available in advance according to its sales conditions.

REGOLAMENT TA' IMPLIMENTAZZJONI TAL-KUMMISSJONI (UE) Nru 455/2011**tal-11 ta' Mejju 2011****li jistabbilixxi l-valuri fissi tal-importazzjoni għad-determinazzjoni tal-prezz ta' dhul ta' ċertu frott u haxix**

IL-KUMMISSJONI EWROPEA,

Wara li kkunsidrat it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea,

Wara li kkunsidrat ir-Regolament tal-Kunsill (KE) Nru 1234/2007 tat-22 ta' Ottubru 2007 li jistabbilixxi organizzazzjoni komuni ta' swieq agrikoli u dwar dispożizzjonijiet speċifiċi għal ċerti prodotti agrikoli (Ir-Regolament Waħdieni dwar l-OKS) ⁽¹⁾,Wara li kkunsidrat ir-Regolament tal-Kummissjoni (KE) Nru 1580/2007 tal-21 ta' Diċembru 2007 dwar regoli dettaljati għall-applikazzjoni tar-Regolamenti tal-Kunsill (KE) Nru 2200/96, (KE) Nru 2001/96 u (KE) Nru 1182/2007 fis-settur tal-frott u hxejjex ⁽²⁾, u b'mod partikolari l-Artikolu 138(1) tiegħu,

Billi:

Fl-applikazzjoni tal-konkluzjonijiet tan-negozjati kummerċjali multilaterali taċ-Ċiklu tal-Urugwaj, il-Regolament (KE) Nru 1580/2007 jistipula l-kriterji għall-istabbiliment mill-Kummissjoni tal-valuri fissi tal-importazzjoni minn pajjiżi terzi, għall-prodotti u għall-perjodi msemmijin fl-Anness XV, it-Taqsima A tar-Regolament imsemmi,

ADOTTAT DAN IR-REGOLAMENT:

Artikolu 1

Il-valuri fissi tal-importazzjoni msemmija fl-Artikolu 138 tar-Regolament (KE) Nru 1580/2007 huma stipulati fl-Anness għal dan ir-Regolament.

Artikolu 2

Dan ir-Regolament għandu jidhol fis-seħh fit-12 ta' Mejju 2011.

Dan ir-Regolament għandu jorbot fl-intier tiegħu u japplika direttament fl-Istati Membri kollha.

Magħmul fi Brussell, il-11 ta' Mejju 2011.

*Għall-Kummissjoni,
fisem il-President,*

José Manuel SILVA RODRÍGUEZ

Direttur Ġenerali għall-Agrikoltura u l-Iżvilupp Rurali

⁽¹⁾ ĠU L 299, 16.11.2007, p. 1.⁽²⁾ ĠU L 350, 31.12.2007, p. 1.

ANNEX

il-valuri fissi tal-importazzjoni għad-determinazzjoni tal-prezz ta' dhul ta' certu frott u haxix

(EUR/100 kg)

Kodiċi NM	Kodiċi tal-pajjiż terz ⁽¹⁾	Valur fiss tal-importazzjoni
0702 00 00	MA	50,3
	TN	107,9
	TR	73,3
	ZZ	77,2
0707 00 05	TR	108,9
	ZZ	108,9
0709 90 70	MA	86,8
	TR	113,8
	ZZ	100,3
0709 90 80	EC	27,0
	ZZ	27,0
0805 10 20	EG	56,6
	IL	59,9
	MA	43,8
	TN	54,9
	TR	74,4
	ZZ	57,9
0805 50 10	TR	54,8
	ZZ	54,8
0808 10 80	AR	96,6
	BR	75,3
	CA	107,1
	CL	85,2
	CN	110,3
	NZ	119,2
	US	143,7
	UY	58,3
	ZA	77,8
	ZZ	97,1

⁽¹⁾ In-nomenklatura tal-pajjiżi ffissata mir-Regolament tal-Kummissjoni (KE) Nru 1833/2006 (ĠU L 354, 14.12.2006, p. 19). Il-kodiċi "ZZ" jirrappreżenta "origini oħra".

REGOLAMENT TA' IMPLIMENTAZZJONI TAL-KUMMISSJONI (UE) Nru 456/2011**tal-11 ta' Mejju 2011****li jemenda l-prezzijiet rappreżentattivi u l-ammonti tad-dazji addizzjonali għall-importazzjoni ta' ċerti prodotti tas-settur taz-zokkor, stabbiliti bir-Regolament (UE) Nru 867/2010 għas-sena tas-suq 2010/11**

IL-KUMMISSJONI EWROPEA,

Wara li kkunsidrat it-Trattat dwar il-Funzjonament tal-Unjoni Ewropea,

Wara li kkunsidrat ir-Regolament tal-Kunsill (KE) Nru 1234/2007 tat-22 ta' Ottubru 2007 li jistabbilixxi organizzazzjoni komuni ta' swieq agrikoli u dwar dispożizzjonijiet speċifiċi għal ċerti prodotti agrikoli (Ir-Regolament Wahdieni dwar l-OKS) ⁽¹⁾,Wara li kkunsidrat ir-Regolament tal-Kummissjoni (KE) Nru 951/2006 tat-30 ta' Ġunju 2006 dwar regoli ddettaljati għall-applikazzjoni tar-Regolament tal-Kunsill (KE) Nru 318/2006 f'dak li għandu x'jaqsam mal-iskambji mal-pajjiżi terzi fis-settur taz-zokkor ⁽²⁾, u b'mod partikolari l-Artikolu 36(2), it-tieni sub-paragrafu, it-tieni sentenza tiegħu,

Billi:

- (1) L-ammonti tal-prezzijiet rappreżentattivi u tad-dazji addizzjonali applikabbli għall-importazzjoni taz-zokkor abjad, taz-zokkor mhux ipproċessat u ta' ċerti guleppijiet

għas-sena tas-suq 2010/11 ġew stabbiliti bir-Regolament tal-Kummissjoni (UE) Nru 867/2010 ⁽³⁾. Dawn il-prezzijiet u dazji ġew emendati l-aħħar mir-Regolament tal-Kummissjoni (UE) Nru 438/2011 ⁽⁴⁾.

- (2) L-informazzjoni li l-Kummissjoni għandha fidejha llum twassal biex dawn l-ammonti jiġu mmodifikati, skont ir-regoli ddettaljati pprovduti fir-Regolament (KE) Nru 951/2006,

ADOTTAT DAN IR-REGOLAMENT:

Artikolu 1

Il-prezzijiet rappreżentattivi u d-dazji addizzjonali applikabbli għall-importazzjoni tal-prodotti msemmija fl-Artikolu 36 tar-Regolament (KE) Nru 951/2006, stabbiliti bir-Regolament (UE) Nru 867/2010 għas-sena tas-suq 2010/11, huma b'dan mmodifikati skont l-Anness ta' dan ir-Regolament.

Artikolu 2

Dan ir-Regolament għandu jidhol fis-seħh fit-12 ta' Mejju 2011.

Dan ir-Regolament għandu jorbot fl-intier tiegħu u japplika direttament fl-Istati Membri kollha.

Magħmul fi Brussell, il-11 ta' Mejju 2011.

*Għall-Kummissjoni,
fisem il-President,*

José Manuel SILVA RODRÍGUEZ

Direttur Ġenerali għall-Agrikoltura u l-Iżvilupp Rurali⁽¹⁾ ĠU L 299, 16.11.2007, p. 1.⁽²⁾ ĠU L 178, 1.7.2006, p. 24.⁽³⁾ ĠU L 259, 1.10.2010, p. 3.⁽⁴⁾ ĠU L 118, 6.5.2011, p. 6.

ANNEX

L-ammonti mmodifikati tal-prezzijiet rappreżentattivi u tad-dazji addizzjonali għall-importazzjoni taz-zokkor abjad, taz-zokkor mhux ipproċessat u tal-prodotti bil-kodiċi NM 1702 90 95, applikabbli mit-12 ta' Mejju 2011

(EUR)

Kodiċi NM	Ammont tal-prezz rappreżentattiv għal kull 100 kg nett tal-prodott ikkonċernat	Ammont tad-dazju addizzjonali għal kull 100 kg nett tal-prodott ikkonċernat
1701 11 10 ⁽¹⁾	43,09	0,00
1701 11 90 ⁽¹⁾	43,09	1,98
1701 12 10 ⁽¹⁾	43,09	0,00
1701 12 90 ⁽¹⁾	43,09	1,68
1701 91 00 ⁽²⁾	42,65	4,67
1701 99 10 ⁽²⁾	42,65	1,54
1701 99 90 ⁽²⁾	42,65	1,54
1702 90 95 ⁽³⁾	0,43	0,26

⁽¹⁾ Stabbilit għall-kwalità standard kif iddefinita fl-Anness IV, il-punt III, tar-Regolament (KE) Nru 1234/2007.

⁽²⁾ Stabbilit għall-kwalità standard kif iddefinita fl-Anness IV, il-punt II, tar-Regolament (KE) Nru 1234/2007.

⁽³⁾ Stabbilit bhala 1 % tal-kontenut f'sukrożju.

IV

(Atti adottati qabel l-1 ta' Diċembru 2009, skont it-Trattat tal-KE, it-Trattat tal-UE u t-Trattat Euratom)

DEĊIŻJONI TAL-AWTORITÀ TA' SORVELJANZA TAL-EFTA

Nru 343/09/COL

tat-23 ta' Lulju 2009

dwar it-tranzazzjonijiet ta' proprjetà li saru mill-Municipalità ta' Time rigward il-proprjetajiet numri 1/152, 1/301, 1/630, 4/165, 2/70, 2/32

(Norveġja)

L-AWTORITÀ TA' SORVELJANZA TAL-EFTA ⁽¹⁾,

Wara li kkunsidrat il-Ftehim dwar iż-Żona Ekonomika Ewropea ⁽²⁾, b'mod partikolari l-Artikoli 61 sa 63 u l-Protokoll 26 tiegħu,

Wara li kkunsidrat il-Ftehim bejn l-Istati tal-EFTA dwar l-Istabbiliment ta' Awtorità ta' Sorveljanza u ta' Qorti tal- Ġustizzja ⁽³⁾, b'mod partikolari l-Artikolu 24 tiegħu,

Wara li kkunsidrat l-Artikolu 1(3) tal-Parti I u l-Artikoli 4(4) u 7(2) fil-Parti II tal- Protokoll 3 għall-Ftehim dwar is-Sorveljanza u dwar il-Qorti ⁽⁴⁾,

Wara li kkunsidrat il-Linji gwida tal-Awtorità dwar l-applikazzjoni u l-interpretazzjoni tal-Artikoli 61 u 62 tal-Ftehim dwar iż-ŻEE ⁽⁵⁾, u b'mod partikolari il-Kapitolu li jirrigwarda l-Elementi ta' Ghajjnuna mill-Istat fil-Bejgħ ta' Artijiet u Bini minn Awtoritajiet Pubbliċi,

Wara li kkunsidrat id-Deciżjoni tal-Awtorità tal-14 ta' Lulju 2004 dwar id-dispożizzjonijiet implimentattivi li jissemmew taht l-Artikolu 27 fil-Parti II tal-Protokoll 3 ⁽⁶⁾,

⁽¹⁾ Minn hawn 'il quddiem imsejha l-Awtorità.

⁽²⁾ Minn hawn 'il quddiem imsejha il-Ftehim dwar iż-ŻEE.

⁽³⁾ Minn hawn 'il quddiem imsejha il-Ftehim dwar is-Sorveljanza u dwar il-Qorti.

⁽⁴⁾ Minn hawn 'il quddiem imsejha il-Protokoll 3.

⁽⁵⁾ Linji gwida dwar l-applikazzjoni u l-interpretazzjoni tal-Artikoli 61 u 62 tal-Ftehim dwar iż-ŻEE u l-Artikolu 1 tal-Protokoll 3 għall-Ftehim dwar is-Sorveljanza u dwar il-Qorti, adottati u maħruġa mill-Awtorità fid-19 ta' Jannar 1994 (ĠU L 231, 3.9.1994, p. 1, u s-Suppliment taż-ŻEE Numru 32, 3.9.1994 p. 1). Il-Linji gwida ġew emendati l-ahhar fl-10 ta' Gunju 2009 (minn hawn 'il quddiem imsejha "l-Linji gwida dwar l-Ghajjnuna mill-Istat"). Il-verżjoni aġġornata tal-Linji gwida dwar l-Ghajjnuna mill-Istat hija ppubblikata fuq il-websajt tal-Awtorità: <http://www.eftasurv.int/state-aid/legal-framework/state-aid-guidelines/>

⁽⁶⁾ Deciżjoni Numru 195/04/COL tal-14 ta' Lulju 2004 (ĠU C 139, 25.5.2006, p. 37, u s-Suppliment taż-ŻEE Numru 26, 25.5.2006 p. 1) kif emendata mid-Deciżjoni Numru 319/05/COL tal-14 ta' Diċembru 2005 (ĠU L 113, 27.4.2006, p. 24, u s-Suppliment taż-ŻEE Numru 21, 27.4.2006, p. 46). Il-verżjoni kkonsolidata tad-Deciżjoni Numru 195/04/COL tinsab fuq il-websajt tal-Awtorità: <http://www.eftasurv.int/media/decisions/195-04-COL.pdf>

Wara li talbet lill-partijiet interessati sabiex jissottomettu l-kummenti tagħhom skont dawk id-dispożizzjonijiet ⁽⁷⁾, u wara li kkunsidrat il-kummenti tagħhom,

Billi:

I. FATTI

1. PROCEDURA

Fit-3 ta' Marzu 2007, l-Awtorità rċeviet ilment minn assoċjazzjoni msejha Aksjonsgrupp "Ta vare på trivelige Bryne", rigward il-bejgħ tal-proprjetajiet numri 1/152, 1/301, 1/630, 4/165 fil-municipalità ta' Time mill-awtoritajiet municipali lil żewġ entitajiet privati differenti, kif ukoll il-bejgħ tat-titolu numru 2/70 (l-istadju ta' Bryne li jinkludi wkoll it-titolu numru 2/32) mill-klabb tal-futbol ta' Bryne, li qabel kien inghata lill-klabb mill-municipalità, lil investitur privat (Avveniment Numru: 414270). Permezz ta' ittra datata d-9 ta' Mejju 2007, l-investitur privat is-Sur Gunnar Oma baghat ilment lill-Awtorità rigward il-bejgħ mill-municipalità ta' Time ta' wahda mill-proprjetajiet imsemija hawn fuq, jiġifieri numru 4/165.

Wara skambju ta' korrispondenza u informazzjoni mal-awtoritajiet Norveġiżi ⁽⁸⁾, fid-19 ta' Diċembru 2007 l-Awtorità ddecidiet li tiftah procedura ta' investigazzjoni formali dwar il-bejgħ tal-plottijiet ta' art imsemija hawn fuq. Id-Deciżjoni tal-Awtorità Numru 717/07/COL sabiex jinghata bidu għal procedura ġiet ippubblikata f'Il-Ġurnal Uffiċjali tal-Unjoni Ewropea u fis-Suppliment taż-ŻEE tiegħu ⁽⁹⁾.

L-awtoritajiet Norveġiżi kienu kkummentaw fuq id-deciżjoni tal-ftuħ permezz ta' ittra datata l-21 ta' Frar 2008 (Avveniment Numru 466024). L-Awtorità talbet lill-partijiet interessati sabiex

⁽⁷⁾ ĠU C 138, 5.6.2008, p. 30, u s-Suppliment taż-ŻEE Numru 31, 5.6.2008, p. 1.

⁽⁸⁾ Għal aktar dettalji dwar l-iskambju ta' korrispondenza ara d-Deciżjoni tal-Awtorità Numru 717/07/COL ippubblikata fuq il-websajt tal-Awtorità: http://www.eftasurv.int/fieldsOfWork/fieldstateaid/stateaidregistry/sadecnor07/717_07_col.pdf.

⁽⁹⁾ Ara n-nota f' qiegħ il-paġna nru 7.

iressqu l-kummenti tagħhom. L-Awtorità rċeviet kummenti minghand żewġ partijiet interessati.⁽¹⁰⁾ Permezz ta' ittra datata l-24 ta' Lulju 2008, (Avveniment Numru 485974), l-Awtorità għaddiet dawn il-kummenti lill-awtoritajiet Norveġiżi. Permezz ta' ittra datata t-13 ta' Awwissu 2008 (Avveniment Numru 488289), l-awtoritajiet Norveġiżi nnotifikaw lill-Awtorità li ma kellhomx aktar kummenti.

2. DESKRIZZJONI TAT-TRANŻAZZJONIJET LI QED JIĠU EŻAMINATI

2.1. IL-BEJGH TAT-TITOLI NUMRI 1/152, 1/301 U 1/630 LIL GRUNNSTEINEN AS

Permezz ta' ftehim ta' bejgh datat il-25 ta' Awwissu 2007⁽¹¹⁾, il-muniċipalitá ta' Time bieghet it-titoli tal-proprjetajiet numri 1/152 (1 312 metru kwadru), 1/301 (741 metru kwadru) u 1/630 (1 167 metru kwadru) fiċ-ċentru ta' Bryne, iċ-ċentru muniċipali tal-muniċipalitá ta' Time, lill-kuntrattur privat tal-proprjetá Grunnsteinen AS. Skont l-ispejgazzjonijiet li ngħataw, l-inizjattiva li jsir dan il-ftehim tidher li ttiehdet mix-xerrejja, u ma saret l-ebda sejha pubblika għall-offerti qabel il-bejgh⁽¹²⁾ Grunnsteinen ma hallset xejn għall-proprjetá iżda dahlet f'impenn li tibni total ta' 65 spazju ta' parkeġġ minflok ma' tagħti hlas normali għall-proprjetá⁽¹³⁾. Il-Klawżola 7 tal-ftehim Grunnsteinen ipprovdiet li t-titoli tal-proprjetá għandhom ikunu ttrasferiti biss meta jitlestew l-ispejgazzjonijiet għall-parkeġġ, sa mhux aktar tard mill-ahhar tal-2008. Barra minn hekk, il-Klawżola 1 stipulat li l-parkeġġ ta' taht l-art tal-karozzi għandu jkun irregiŝtrat bhala titolu separat fir-reġistru tal-artijiet meta jiġi ttrasferit mill-ġdid lill-Muniċipalitá ta' Time.

Il-Klawżola 1 tal-kuntratt⁽¹⁴⁾ tiddikjara li l-proprjetajiet, fil-mument meta sar il-kuntratt, kienu allokat għal skopijiet residenzjali u ta' triq pubblika/parkeġġ pubblika.

Taht il-Klawżola 1 tal-kuntratt, Grunnsteinen AS intrabtet li tibni spazji għall-parkeġġ taht l-art fuq it-titolu numru 1/152, li minnhom 65 kellhom ikunu ttrasferiti lill-muniċipalitá ta' Time malli jitlestew (klawżola 1 u 5 tal-ftehim). Skont l-awtoritajiet muniċipali, il-hlas għat-titolu numru 1/152 kien jikkonsisti fl-44 spazju ta' parkeġġ fuq il-proprjetá li kienu kkompensati mill-parkeġġ tal-karozzi ta' taht l-art. Rigward it-titoli numri 1/301 u 1/630, il-muniċipalitá kienet ikkummissjonat stima tal-valur ta' wahda mill-proprjetajiet, it-titolu numru 1/630, li l-muniċipalitá ssostni li kienu vvalutati minn Eiendomsmeġler 1. L-istima tat-titolu numru 1/630, li kkonkludiet li l-valur fis-suq

kien ta' NOK 600 kull metru kwadru, giet ipprezentata lill-Awtorità qabel infetħet il-proċedura ta' investigazzjoni formali⁽¹⁵⁾. Bhala twegiba għat-talbiet tal-Awtorità, l-awtoritajiet Norveġiżi fil-bidu pprezentaw kalkoli li saru mid-ditta tal-kostruzzjoni Skanska Norge AS, li kienu juru li l-prezz għal spazju ta' parkeġġ fparkeġġ tal-karozzi taht l-art huwa ta' madwar NOK 150 000,- minbarra t-taxxa fuq il-valur miżjud u l-ispejjeż ta' xiri/kiri tal-art.⁽¹⁶⁾ Fuq il-baži ta' dawn l-istimi, l-awtoritajiet Norveġiżi ddikjaraw li l-prezz tas-suq għat-titoli numri 1/301 u 1/630, ibbażat fuq l-istima tal-valur, kien ta' madwar NOK 2 516 400⁽¹⁷⁾, filwaqt li l-valur tal-21 spazju ta' parkeġġ l-ohrajn li Grunnsteinen kienet intrabtet li tibni għall-muniċipalitá kien stmat għal madwar NOK 2 625 000⁽¹⁸⁾. Għaldaqstant, il-valur ta' dawn iż-żewġ proprjetajiet kellu jiġi kkompensat kollu minn Grunnsteinen permezz tal-bini ta' 21 spazju ta' parkeġġ addizzjonali.

B'risposta għall-ordni biex tingħata informazzjoni li saret mill-Awtorità fid-deċiżjoni ta' ftuħ ta' proċedura ta' investigazzjoni formali, tressqu stimi ġodda tal-valur tal-proprjetá, kif ukoll stimi tal-prezz tal-parkeġġ tal-karozzi.⁽¹⁹⁾ L-istimi tal-valur ġodda saru mid-ditta ta' valutazzjoni tal-assi OPAK. Abbażi tal-metodu tal-ispejjeż tal-art⁽²⁰⁾, OPAK waslet għall-valur tas-suq ta' NOK 3,2 miljun għall-proprjetajiet mibjugħa *en bloc*. Skont OPAK, id-dar fuq it-titolu numru 1/301 hija kkundannata u ser ikollha titwaqqa', b'hekk hija piż fuq il-proprjetá. L-ispejjeż għat-twaqqiġ huma stmati għal madwar NOK 150 000. L-istima ta' OPAK tinkludi wkoll stimi tal-ispejjeż għall-ispejgazzjonijiet għall-parkeġġ. Ibbażati fuq minimu ta' 25 metru kwadru għal kull spazju ta' parkeġġ (kif mitlub mir-regolamenti tal-gvern) u l-ispejjeż tal-bini ta' NOK 5 200 għal kull metru kwadru (ibbażati fuq l-esperjenza), OPAK tasal għall-prezz ta' NOK 130 000 għal kull spazju ta' parkeġġ, jew NOK 8 450 000 għal 65 spazju ta' parkeġġ.

2.2. IL-BEJGH TAT-TITOLU NUMRU 4/165 LIL BRYNE INDUSTRI-PARK AS

Fil-31 ta' Awwissu 2005, il-Muniċipalitá ta' Time u l-kuntrattur privat tal-proprjetá Bryne Industripark AS iffirmaw ftehim ta' bejgh fir-rigward tat-titolu numru 4/165 f'Håland f'Time.⁽²¹⁾ It-titolu kien jinkludi 56 365 metru kwadru ta' art industrijali, u l-prezz tal-bejgh kien stabbilit għal NOK 4,7 miljun (jew madwar NOK 83 kull metru kwadru). Fiz-żmien meta gie ffirmat il-ftehim, iż-żona kienet allokata għal skopijiet industrijali iżda l-pjan dettaljat ta' tqassim tat-territorju ma gie adottat

⁽¹⁰⁾ Avvenimenti Nri 484855 (Kummenti mill-Assoċjazzjoni tal-Futbol Norveġiża, datata l-4 ta' Lulju 2008), 485026 (Kummenti mid-ditta tal-avukati Arntzen de Besche fisem Bryne fotballklubb, datata t-8 ta' Lulju 2008) u 485461 (Kummenti mid-ditta tal-avukati Selmer fisem Vålerenga football, datata t-8 ta' Lulju 2008).

⁽¹¹⁾ Minn hawn 'il quddiem imsejjah "il-Ftehim Grunnsteinen".

⁽¹²⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879), risposta għad-domanda 1(e).

⁽¹³⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879), Domanda 1(e).

⁽¹⁴⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Anness 1).

⁽¹⁵⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Anness 2). Fir-risposta tan-Norveġja, huwa ddikjarat li l-valutazzjoni tal-valur kienet tirrigwarda t-titoli numri 1/301 u 1/630. Madankollu, dan mhux rifless fil-valutazzjoni reali, u n-numru ta' metri kwadri msemmi fiha lanqas ma jindika li ġew ikkunsidrati iż-żewġ proprjetajiet.

⁽¹⁶⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Anness 5).

⁽¹⁷⁾ Dan jidher li huwa bbażat fuq valur ta' NOK 600 għal kull metru kwadru flimkien mal-valur ta' bini fuq it-titolu numru 1/301. L-Awtorità ma ngħatatx valutazzjoni tal-bini.

⁽¹⁸⁾ Dan huwa bbażat fuq l-istima tal-ispiza oriġinali tal-Muniċipalitá ta' NOK 125 000, stabbiliti fid-dokumenti ta' sfond għad-deliberazzjonijiet fil-kunsill muniċipali (Avveniment Numru 413558, pp. 16-17). L-istima minn Skanska tidher li nksibet fi stadju aktar tard.

⁽¹⁹⁾ Il-kummenti tan-Norveġja għad-deċiżjoni ta' ftuħ tal-Awtorità, Avveniment Numru 466024, anness 3.

⁽²⁰⁾ Bin-Norveġiż: *Tomtebelastningsmetoden*.

⁽²¹⁾ Avveniment Numru 413558, p. 19 *et seq.*

minhabba oġġezzjonijiet mill-Amministrazzjoni Pubblika tat-Toroq. Il-kuntratt fih klawżola ta' rkupru (Klawżola 7) għall-municipalità ta' Time f'każ li l-proprjetà ma tkunx inbniet jew intużat sa 5 snin wara d-data tat-tehíd tal-pussess.

Fil-mument meta sar il-ftehim, il-proprjetà kienet tikkonsisti f'art mhux żviluppata. Fil-memorandum għall-kunsill municipali li approva l-ftehim, l-amministrazzjoni municipali tiddikjara li l-konkluzjoni ta' ftehim ta' żvilupp għandha tkun kundizzjoni għall-bejgħ tal-art. Skont l-awtoritajiet municipali, ir-regolamenti l-ġodda dettaljati ta' tqassim tat-territorju ġew adottati fit-30 ta' Awwissu 2007, li taħthom il-proprjetà kienet allokata għal skopijiet sportivi⁽²²⁾. Il-ftehim ta' bejgħ stipula li ftehim ta' żvilupp għandu jkun konkluz fuq il-bażi tar-regolament tat-tqassim tat-territorju. L-awtoritajiet Norveġiżi, fiż-żmien meta kkomunikaw id-deċiżjoni ta' ftuh, issottomettew stima tal-ispejjeż ta' żvilupp ikkummissjonata mid-ditta ta' konsulenza Asplan Viak u offerta għax-xoghlijiet tal-art sottomessa minn bennej lokali⁽²³⁾.

Il-municipalità tikkonferma li ma giet organizzata l-ebda sejha pubblika għall-offerti qabel il-bejgħ, li sehħ wara inizjattiva mix-xerrej, iżda ssostni li l-art giet irrekklamata fuq il-paġna tal-Internet tagħha fl-2003-2004. Jirriżulta mill-memorandum amministrattiv li sar qabel il-bejgħ li l-prezz mitlub kien ibbażat fuq il-prezz li bih il-municipalità ta' Time xtrat il-proprjetà fl-1999, li miegħu ġew miżjuda l-ispejjeż kapitali, il-hidma regolatorja u l-ispejjeż amministrattivi. Il-prezz kien, għalhekk, stabbilit b'mod konformi mal-prinċipju ġenerali tal-municipalità għall-bejgħ ta' proprjetajiet industrijali, jiġifieri bejgħ bil-prezz kemm jiswew⁽²⁴⁾.

L-ilmentatur allega li l-prezz għal dan it-tip ta' proprjetà għandu jkun fil-medda ta' NOK 400 kull metru kwadru, abbażi ta' stima allegatament imwettqa minn stimatur indipendenti tal-assi f'Janar 2007⁽²⁵⁾. Madankollu, ma giet ipprezentata l-ebda dokumentazzjoni għal dan. L-awtoritajiet municipali kienu qegħdin jiddikjaraw li l-prezz tas-suq huwa fil-medda ta' madwar NOK 80 u 115 kull metru kwadru fiż-żona, ibbażat fuq il-bejgħ ta' proprjetajiet simili bejn persuni privati fir-reġjun⁽²⁶⁾. B'risposta għall-ordni biex tinghata informazzjoni tal-Awtorità fid-deċiżjoni ta' ftuh ta' proċedura ta' investigazzjoni formali, l-awtoritajiet Norveġiżi ressqu stima tal-valur li saret minn OPAK. L-istima ta' OPAK tirrigwarda l-art kif allokata fil-mument tal-kuntratt, jiġifieri għal skopijiet industrijali u mhux għal skopijiet sportivi, f'konformità mar-regolamenti ta' tqassim ta' territorju li ħarġu wara. L-istima mhijiex ibbażata fuq il-metodu ta' sfruttament, iżda fuq il-valur tal-bejgħ, definit bħala "il-prezz li bosta partijiet interessati indipendenti huma mahsuba li jkunu lesti li jhallsu fid-data tal-istima". F'dan il-każ, dan il-prezz ġie stabbilit b'referenza għal prezzijiet ta'

bejgħ li nkisbu għal "proprjetajiet komparabbli fiż-żona". L-istima tikkonkludi li l-prezz tas-suq ma jistax ikun stabbilit b'ċertezza, iżda li x'aktarx ikun fil-medda ta' 80 sa 100 NOK/metru kwadru.

2.3. IL-BEJGĦ TAT-TITOLI NUMRI 2/70 U 2/32 LIL BRYNE FOTBALLKLUBB

2.3.1. Il-ftehim tal-bejgħ

Permezz tal-ftehim datat it-8 ta' Awwissu 2003⁽²⁷⁾, il-municipalità ta' Time ittrasferiet it-titolu lill-istadju ta' Bryne, it-titoli numri 2/32 u 2/70, żona ta' madwar 53 000 metru kwadru, lil Bryne fotballklubb (Bryne FK)⁽²⁸⁾. Il-bini fuq l-art (inkluża t-tribuna tal-futbol) kienu diġà proprjetà tal-klabb tal-futbol u kien hemm stabbiliti ftehimiet tal-kiri tal-art⁽²⁹⁾. Bini wiehed li mhux proprjetà tal-klabb tal-futbol ta' Bryne jidher li baqa' fuq l-art, u kien previst li l-klabb jieħu fidejħ id-drittijiet tal-municipalità taħt il-ftehim tal-kiri mas-sid tal-bini⁽³⁰⁾.

Taħt il-Klawżola 2 tal-ftehim ta' Bryne, it-titoli numri 2/32 u 2/70 huma ttrasferiti lil Bryne FK mingħajr remunerazzjoni. Barra minn hekk, il-municipalità kopriet l-ispejjeż kollha marbutin mat-trasferiment tal-proprjetà, bħat-tqassim, kejl eċċ. It-titoli jinkludu madwar 53 000 metru kwadru, u l-ftehim ipprova b'mod espress li għandu jintuża, primarjament, għal skopijiet sportivi.

Jirriżulta mill-Klawżola 1 tal-ftehim li l-klabb tal-futbol kien talab it-titoli tal-art li kellhom ikunu ttrasferiti. L-ghan kien li jiżiedu l-assi tal-klabb, sabiex ikun jista' jtejjeb il-grawnd tal-futbol f'konformità ma' rekwiziti applikabbli għal kull grawnd li jintuża għat-Tippeligaen (il-Kampjunat Premier Norveġiż). Il-memoranda mhejjija mill-municipalità jindikaw li kien essenzjali għall-klabb li jkun kapaci jwiegħed il-proprjetà bħala kollaterali għal dejn, għalkemm il-valur tagħha kien mistenni li jonqos minhabba d-dispożizzjoni fil-kuntratt li tghid li tista' tintuża biss għal skopijiet sportivi.

B'risposta għall-ordni biex tinghata informazzjoni li saret mill-Awtorità fid-deċiżjoni ta' ftuh ta' proċedura ta' investigazzjoni formali, l-awtoritajiet Norveġiżi pprovdew stima tal-valur tal-art tal-istadju kif kienet fil-mument tat-trasferiment. L-istima saret minn OPAK. OPAK waslet għal valur ta' bejgħ ta' NOK 2 650 000, ibbażat fuq l-istima tal-art bħala art li sejra tintuża għal faċilitajiet sportivi.

⁽²²⁾ Il-kummenti tan-Norveġja għad-deċiżjoni ta' ftuh tal-Awtorità, Avveniment Numru 466024, nota 9 ta' qiegħ il-paġna.

⁽²³⁾ Il-kummenti tan-Norveġja għad-deċiżjoni ta' ftuh tal-Awtorità, Avveniment Numru 466024, Annessi 8 u 9.

⁽²⁴⁾ Avveniment Numru 413558, pp. 16-17.

⁽²⁵⁾ Ara l-Avveniment Numru 413558 (ilment originali), ripetut fil-kummenti ta' Aksjonsgrupp għar-risposta tan-Norveġja, Avveniment Numru 477440.

⁽²⁶⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Annessi 13-17).

⁽²⁷⁾ Minn hawn 'il quddiem imsejjah "il-ftehim ta' Bryne".

⁽²⁸⁾ Avveniment Numru 413558, p. 29, u r-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Anness 29). Mid-dokumenti ta' sfond mill-bejgħ, jidher li l-municipalità kienet, min-naħa tagħha, xtrat l-art mingħand il-klabb tal-futbol għal NOK 1 miljun fl-1996. L-Awtorità m'għandhiex aktar informazzjoni fuq dan il-bejgħ.

⁽²⁹⁾ Il-ftehimiet ta' kiri tal-art ipprovduti min-Norveġja, l-annessi 18 u 19 għar-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879).

⁽³⁰⁾ Ara l-Anness 24 għar-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879).

L-ilmentatur iddikjara li Bryne FK, fl-2007, kien ippjana li jbiegħ l-istadju lil Forum Jæren għal NOK 50 miljun. Kellu jimbena stadju ġdid f'Håland, fuq art mixtrija minn Bryne Industripark AS (kif imsemmi aktar 'il fuq). B'risposta għat-talba tal-Awtorità għal aktar informazzjoni, l-awtoritajiet Norveġiżi kkonfermaw li għet iffirmita ittra ta' intenzjoni bejn Bryne FK u Forum Jæren rigward it-titolu numru 2/70, iżda ma setgħux jipproduċu kopja tagħha. Madankollu, fl-2008, dawn it-tranzazzjonijiet jidhru li treġġgħu lura minhabba li l-ispejjeż għall-bini tal-istadju ppjanat f'Håland irriżultaw li kienu hafna oghla minn dak li kien mistenni. ⁽³¹⁾

2.3.2. Bryne FK

Id-destinatarju tal-art, Bryne FK, huwa klabb lokali tal-futbol, li bħalissa qed jilgħab fl-hekk imsejha "Lig Adecco" (l-1 diviżjoni). Bryne FK huwa rreġistrat fir-reġistru tal-kumpaniji bħala organizzazzjoni mingħajr skop ta' profitt ⁽³²⁾, iżda l-klabb tal-futbol waqqaf ukoll kumpanija b'responsabbiltà limitata, Bryne Fotball AS.

Skont l-informazzjoni li nġhatat mill-awtoritajiet Norveġiżi ⁽³³⁾, fl-2001 il-klabb u l-kumpanija b'responsabbiltà limitata dahlu fi ftehim ta' kooperazzjoni bbażat fuq ftehim standard elaborat mill-Assoċjazzjoni tal-Futbol Norveġiża għal kooperazzjoni bejn id-diviżjonijiet kummerċjali u mhux kummerċjali ta' tim. Taht it-termini ta' dan il-ftehim ⁽³⁴⁾, il-kumpanija b'responsabbiltà limitata, imsejha Bryne Fotball ASA f'dak iż-żmien, kienet responsabbli minn dawn l-attivitajiet ekonomiċi li ġejjin: ftehimiet ta' sponsorjar, il-bejgħ ta' drittijiet tal-midja u tat-televiżjoni u spazju għar-reklami, il-bejgħ u l-liċenzjar ta' parafernalja għall-partitarji, l-użu ta' kowċis u plejers għal skopijiet ta' reklamar, l-isfruttament kummerċjali tal-isem u l-logo tal-klabb, il-bejgħ tal-biljetti għall-partiti tal-klabb li jintlagħbu fil-grawnd tiegħu, u kuntratti li jirrigwardaw attivitajiet tat-tombli. Bryne FK, min-naħa l-oħra, kien responsabbli mill-kwistjonijiet kollha relatati mal-isports bħal tahrig u għażla tat-timijiet, il-kalendarju tal-partiti u l-partiti nnifishom, arranġamenti ta' vvaġġar għall-plejers, drittijiet u obbligi fil-konfront tal-plejers, il-membri, l-organizzazzjonijiet u l-aġenziji governattivi, kif assenjati fuq il-klabb mir-regolamenti u l-liġijiet tal-assoċjazzjonijiet sportivi, miżati tal-abbonati u attivitajiet kummerċjali minuri bħal lotteriji organizzati waqt il-partiti, u l-operat tal-istadju.

Taht il-ftehim ta' kooperazzjoni Bryne Fotball ASA kienet finanzjarjament responsabbli għall-plejers ⁽³⁵⁾. Barra minn hekk, Bryne Fotball ASA hallset il-prezz għax-xiri tal-plejers, jew, inkella, prezz lil Bryne FK meta plejer kien ikun promoss

għat-tim ewlieni minn wiehed mit-timijiet taż-żgħar tal-klabb. Il-kumpanija b'responsabbiltà limitata kienet iżżomm ukoll il-profitti netti meta kienu jithallsu dawn l-ispejjeż. Fl-aħhar nett, il-kumpanija b'responsabbiltà limitata kienet thallas lil Bryne FK somma ta' NOK 150 000 kull sena għall-kiri tal-istadju, kif ukoll NOK 10 000 għal kull loġħba futbol uffiċjali, u prezz għad-drittijiet tal-midja, drittijiet ta' sponsorjar, eċċ.

Madankollu, biex ikun hemm konformità mar-regoli generali tal-NFF, il-kuntratti ta' impjeg tal-plejers kien jidhol formalment għalihom Bryne FK, u l-klabb kien ukoll, b'mod formali, parti għal kuntratti li jikkonċernaw il-bejgħ, ix-xiri u l-kiri ta' plejers. Barra minn hekk, il-klabb kien responsabbli mill-ġestjoni ta' natura purament sportiva (bħal tahrig, għażla, eċċ.).

Fir-rebbiegħa tal-2004, il-klabb u l-kumpanija organizzaw ruhhom mill-ġdid. L-attivitajiet kollha fi Bryne ASA ġew ittrasferiti lil Bryne FK, u Bryne Fotball ASA biddlet l-istatus tal-kumpanija u saret Bryne Fotball AS, li l-uniku għan tagħha kien li thallas id-djun. Id-djun jidhru li thallsu fl-2006. ⁽³⁶⁾ Għaldaqstant, fil-preżent, l-attivitajiet kollha, ekonomiċi u mhux, qegħdin isiru fi hdan Bryne FK.

3. KUMMENTI MILL-AWTORITAJIET NORVEĠIŻI

Il-Gvern Norveġiż issottometta kummenti għad-deċiżjoni ta' ftuħ ta' procedura ta' investigazzjoni formali.

3.1. KUMMENTI GĦALL-BEJGĦ TAT-TITOLI NUMRI 1/152, 1/301 U 1/630 LIL GRUNNSTEINEN AS

Mal-kummenti tagħhom, l-awtoritajiet Norveġiżi ressqu wkoll stima tal-valur tal-proprietà, inkluża stima tal-prezz tal-ispazji għall-parkeġġ ta' taht l-art.

L-awtoritajiet Norveġiżi huma tal-fehma li l-proprietà ma nġhatatx mingħajr remunerazzjoni; il-municipalità kienet thallset permezz tal-bini tal-parkeġġ tal-karozzi ta' taht l-art. Għaldaqstant, ma jkun hemm l-ebda għajjnuna mill-Istat jekk l-ispiza tal-bini tal-ispazji għall-parkeġġ jikkorrispondi għal mill-inqas il-valur tal-proprietajiet ittrasferiti lil Grunnsteinen AS.

F'dak ir-rigward, l-awtoritajiet Norveġiżi jindikaw l-istima tal-valur li saret minn OPAK, li waslet għal valur fil-medda ta' NOK 4 510 000 sa NOK 5 636 000 għall-proprietajiet ittrasferiti lil Grunnsteinen, mehuda kollha f'daqqa. Barra minn hekk, OPAK tistma l-ispiza tal-bini tal-ispazji għall-parkeġġ fil-parkeġġ tal-karozzi ta' taht l-art għal madwar NOK 8 450 000, ibbażata fuq l-esperjenza minn proġetti simili, li hija Prattika industrijali normali. L-awtoritajiet Norveġiżi jirrivevaw ukoll li l-kumpanija ta' kostruzzjoni Skanska, fuq l-istess bażi, stmat l-ispejjeż ta' bini ta' spazju wiehed għall-parkeġġ għal NOK 150 000, jew NOK 9 750 000 għal 65 spazju ta' parkeġġ.

⁽³¹⁾ Il-kummenti ta' Bryne FK għall-ftuħ tal-proċedura ta' investigazzjoni formali (Avveniment Numru 485026).

⁽³²⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Anness 21).

⁽³³⁾ Il-kumment tan-Norveġja għad-deċiżjoni tal-ftuħ ta' procedura ta' investigazzjoni formali, ittra datata 21 ta' Frar 2008 (Avveniment Numru 466024).

⁽³⁴⁾ Anness 13 għall-kummenti tan-Norveġja għad-deċiżjoni tal-ftuħ ta' procedura ta' investigazzjoni formali, ittra datata l-21 ta' Frar 2008 (Avveniment Numru 466024).

⁽³⁵⁾ Il-kumpanija b'responsabbiltà limitata kienet qiegħda thallas il-pagi tal-plejers, kif ukoll il-pagi tal-fizjoterapisti, kowċis u persunal iehor ta' appoġġ; il-kontribuzzjoni tas-sigurtà soċjali tal-impjegatur; ix-xiri u l-manutenzjoni tat-tagħmir meħtieġ għat-tahrig u l-partiti; sessjonijiet ta' tahrig; u, fl-aħhar nett, spejjeż ta' vvaġġar għat-timijiet b'konnessjoni ma' loġħbiet li jintlagħbu fil-grawnds ta' timijiet avversarji.

⁽³⁶⁾ Ir-risposta tan-Norveġja għall-ewwel talba għal informazzjoni mill-Awtorità (Avveniment Numru 427879, Anness 22).

Abbażi ta' dawn il-figuri, l-awtoritajiet Norveġiżi jissottomettu li l-ispiża tal-parkeġġ tal-karozzi tpatti aktar milli meħtieġ għall-valur tal-proprietà, u, għaldaqstant, mhi involuta l-ebda għaj-nuna mill-Istat.

3.2. KUMMENTI GHALL-BEJGH TAT-TITOLU NUMRU 4/165 LIL BRYNE INDUSTRIPARK AS

Fir-rigward tal-bejgh tat-titolu numru 4/165 lil Bryne Industri-park AS, tressqet mill-ġdid stima tal-valur li saret minn OPAK. L-awtoritajiet Norveġiżi irrilevaw li OPAK ivvalutat l-art f'kon-formità ma' regolamenti applikabbli f'dak iż-żmien, jiġifieri art mhux żviluppata rrizervata għal għanijiet industrijali fil-pjan munici-pali ġenerali, iżda mhux sugġetta għal pjan dettaljat ta' tqassim ta' territorju. L-awtoritajiet Norveġiżi jissottomettu li huwa rrilevanti li kienet giet sottomessa proposta għal pjan dettaljat ta' tqassim ta' territorju u wara giet irtirata, u li ż-żona giet allokata mill-ġdid aktar tard għal għanijiet sportivi, sakemm ma kienx hemm pjan ta' tqassim ta' territorju appli-kabbli fil-mument tat-tranzazzjoni.

F'dan l-isfond, l-awtoritajiet Norveġiżi jenfasizzaw li l-prezz effettivament imhallas minn Bryne Industripark, NOK 4 700 000 (li jikkorrispondi għal NOK 83 għal kull metru kwadru), jaq' fil-limiti ta' prezz aċċettabbli skont l-istima tal-valur ta' OPAK, jiġifieri NOK 4 510 000 – NOK 5 636 000 (jew NOK 80 sa 100 kull metru kwadru). Filwaqt li jirrikonoxxu li l-prezz imhallas huwa fil-medda l-baxxa tal-intervall tal-prezz aċċettabbli li waslet għalih l-OPAK, l-awtoritajiet Norveġiżi madankollu jissottomettu li ma tistax tkun involuta l-ebda għaj-nuna sakemm il-prezz imhallas ma jiddevjax b'mod sinjifikanti mill-valuri stmati, minhabba li l-valur ta' art mhux żviluppata li mhix soġġetta għal pjan ta' tqassim ta' territorju huwa, fi kwalunkwe każ, incert.

3.3. KUMMENTI GHALL-BEJGH TAT-TITOLU NUMRI 2/70 U 2/32 LIL BRYNE FK

Fir-rigward tal-bejgh tat-titolu numri 2/70 u 2/32, l-awtoritajiet Norveġiżi argumentaw li l-ewwel kwistjoni li għandha tkun indirizzata hija jekk ingħatax vantaġġ ekonomiku lil Bryne FK permezz tat-tranzazzjoni. Fl-istima tal-valur mehmuża, OPAK stmat il-valur tal-proprietà li fuqha huwa mibni l-istadju li huwa fil-medda ta' NOK 2 385 000 sa NOK 2 915 000 NOK. Minhabba li ma thallset l-ebda remunerazzjoni għall-proprietà, l-awtoritajiet Norveġiżi jirrikonoxxu li Bryne FK irċieva vantaġġ ekonomiku li jikkorrispondi għall-valur tal-proprietà, kif stabbi-lit minn OPAK.

Minkejja l-vantaġġ mogħti lil Bryne FK, l-awtoritajiet Norveġiżi jissottomettu li t-tranzazzjoni ma kinitx tinvolvi għaj-nuna fis-sens tal-Artikolu 61(1) tal-Ftehim dwar iż-ŻEE. Fil-fehma tagħhom, Bryne FK, fil-mument tat-tranzazzjoni, ma kienx in-trapriża fis-sens tar-regolamenti taż-ŻEE dwar l-għaj-nuna mill-Istat. Din l-opinjoni hija bbażata fuq l-istruttura organizzattiva tal-klabb fil-mument li saret it-tranzazzjoni: F'dak iż-żmien, Bryne FK kien involut biss f'attivitajiet mhux kummerċjali u mhux professjonali, filwaqt li l-attività kummerċjali u r-riskji u l-benefiċċji ekonomiċi relatati mat-tim tal-futbol professjonali tal-klabb saru fi hdan Bryne Fotball ASA.

Rigward kwalunkwe għaj-nuna mill-Istat possibbli lil Bryne Fotball ASA, in-Norveġja ssostni li din kienet eskluża permezz tat-termini tal-ftehim ta' kooperazzjoni. Skont il-ftehim, Bryne Fotball ASA kienet obligata thallas somma annwali ta' NOK 150 000 lil Bryne FK għall-użu tal-istadju, flimkien ma' NOK 10 000 għal kull partita uffiċjali. B'hekk, il-ftehim għandu jiżgura li l-vantaġġ ekonomiku li jirriżulta mit-trasferiment tal-art għandu jibbenefika esklużivament lil Bryne FK.

Fir-rigward tal-amalgamazzjoni bejn Bryne Fotball ASA u Bryne FK, li saret madwar sitt xhur wara t-trasferiment tal-proprietà, l-awtoritajiet Norveġiżi jissottomettu li wiehed ma jistax jassumi li, bhala riżultat tal-amalgamazzjoni, il-vantaġġ mogħti mill-municipalità jakkumula awtomatikament proporzjonalment għall-attivitajiet kummerċjali tal-klabb. Minflok, l-attivitajiet ekonomiċi attwali għandhom ikunu analizzati fid-dettall sabiex ikun stabbilit mudell ta' tqassim bejn l-attivitajiet ekonomiċi u dawk mhux ekonomiċi.

4. KUMMENTI MINN PARTIJIET TERZI

4.1. KUMMENTI MINN BRYNE FK

Bryne FK ipprova kummenti rigward it-trasferiment tal-proprietà u l-istruttura organizzattiva u l-attivitajiet tal-klabb.

Il-klabb jispjega, f'konformità ma' dak li gie stabbilit aktar 'il fuq, li l-istruttura organizzattiva tiegħu nbidlet meta Bryne FK u Bryne Fotball ASA amalgamaw fl-2004. Fil-preżent, l-attivitajiet kollha jsiru fi hdan Bryne FK. Madankollu, il-klabb daħal fi ftehim parallel mal-kumpanija Klubbinvest AS, li tassumi r-riskju finanzjarju għall-kuntratti mal-plejers tal-futbol professjo-nali.

Barra minn hekk, il-klabb jirriveva li kellu riżultati negattivi fl-2005, 2006 u fl-2007, u li l-parti ewlenija tal-attivitajiet tiegħu mhijiex kummerċjali, u hija primarjament relatata ma' plejers tal-futbol zghazagh. Minn numru totali ta' 2 047 siegħa ta' attività fil-klabb⁽³⁷⁾, l-attività ekonomika tirrappreżenta biss madwar 230 siegħa, jew 11 fil-mija tat-total. L-attivitajiet kollha mhux ekonomiċi jsiru fil-facilitajiet li jinsabu fuq l-art ittrasferita lill-klabb permezz tal-ftehim datat 2003.

Rigward it-trasferiment tat-titolu għall-bini tal-istadju, il-klabb jenfasizza li l-art biss giet ittrasferita fl-2003, minhabba li l-klabb kien diġà fil-pussess tal-bini u tal-facilitajiet. Barra minn hekk, il-klabb jirreferi għal ftehim ta' kiri li dahlet għalih il-municipalità ta' Time, fil-kapaċità tagħha bhala s-sid preċedenti tal-proprietà, li permezz tiegħu ċerta zona tal-art ittrasferita hija rrizervata għall-parkeġġ għal perjodu ta' 99 sena. Il-klabb huwa tal-fehma li l-ftehim ta' kiri fit-tul inaqas b'mod sinjifikanti l-valur tal-proprietà, u li dan ma giex ikkunsidrat minn OPAK.

⁽³⁷⁾ Ibbażat fuq tabella pprovduta minn Bryne FK (inkorporata f'Avveniment Numru 485026), li turi n-numru ta' sigħat ta' attività mqassma skont il-grupp ta' età, ix-xahar u t-tip ta' attività (tahrig, partiti, eċċ.).

Fil-fehma tal-klabb, Bryne FK ma kienx intrapriża fil-mument tat-trasferiment tal-art, minhabba l-istruttura organizzattiva f'dak iż-żmien u l-ftehim ta' kooperazzjoni, deskritt hawn fuq. Minhabba li l-kwistjoni tal-ghajjnuna ghandha tkun evalwata fil-mument tat-trasferiment, mhix involuta ghajjnuna mill-Istat. F'dak li jirrigwarda l-valur tal-proprjetà, il-klabb jinnota li, minhabba l-valur negattiv tal-kuntratt tal-kiri li jirriżerva partijiet mill-art għall-parkeġġ, il-valur reali tal-art ittrasferita huwa ferm aktar baxx minn dak li jikkonkludi OPAK. Għaldaqstant, jekk l-Awtorità tikkonkludi li t-trasferiment jinvolvi ghajjnuna, kull element ta' ghajjnuna jista', għalhekk, ikun *de minimis*.

4.2. KUMMENTI MILL-ASSOCJAZZJONI NORVEĠIŻA TAL-FUTBOL

L-assocjazzjoni Norveġiża tal-futbol (NFF) issottomettiet kummenti li jappartjenu għall-organizzazzjoni tal-futbol Norveġiż ingenerali, filwaqt li qagħdet lura milli tikkummenta b'mod speċifiku dwar il-każ preżenti.

L-assocjazzjoni tispjega li hija waħda mill-akbar organizzazzjonijiet mingħajr skop ta' profitt, b'aktar minn 500 000 membru, inklużi 400 000 plejer tal-futbol attivi. Ir-reklutaġġ u l-iżvilupp tal-plejers fil-livelli kollha huwa l-attività ewlenija tal-assocjazzjoni.

NFF, għaldaqstant, tagħmel hilitha biex tiżgura li jeżistu facilitajiet adegwati fil-pajjiż kollu.

NFF tirrileva li, fil-prinċipju, hija responsabbiltà pubblika li jkunu offruti u organizzati attivitajiet sportivi għat-tfal u ż-żgħażaġh fl-ambjent l-lokali tagħhom. Għaldaqstant, il-bini ta' facilitajiet godda jehtieg il-kontribut tal-komunità sportiva kif ukoll tal-Awtoritajiet pubbliċi. Fir-realtà, NFF temmen li l-kontribut tal-klabbs għall-kompitu pubbliku huwa pjuttost sostanzjali, għalkemm qatt ma gie kkwantifikat. Benefiċċju addizzjonali tal-isforzi tagħha lejn it-tfal u ż-żgħażaġh huwa l-holqien ta' passagġ bejn il-futbol għad-dilettanti u l-futbol professjonali. Is-solidarjetà mal-klabbs lokali dejjem hija objettiv importanti, anki meta d-dhul ikun iġġenerat permezz tal-bejgħ ta' drittijiet tal-midja fil-livell nazzjonali jew dak Ewropew.

4.3. KUMMENTI MINN VÅLERENGA FOTBALL

Vålerenga Fotball, permezz tad-ditta Selmer Law, ir-rappreżentant legali tiegħu, ressaq kummenti ġenerali dwar il-kwistjoni ta' trasferiment ta' art lil klabbs tal-futbol bl-ghan li jinbnew facilitajiet tal-futbol. Skont Vålerenga, din il-kwistjoni hija ta' importanza Prattika u x'aktarx li titfaċċa mill-ġdid fil-futur.

F'dan l-isfond, il-klabb jirrileva 6 kwistjonijiet li jistgħu jkunu ta' importanza meta wieħed jitratta dan it-tip ta' każijiet. L-ewwel, huwa jirrileva l-importanza li jinżammu kotba separati bejn il-parti kummerċjali u dik mhux kummerċjali tal-klabb. It-tieni, Vålerenga jsostni li klabb li għandu stadju li jinkera, jista' xorta waħda jaq' barra d-definizzjoni ta' intrapriża sakemm jopera biss bhala "proprjetarju passiv". It-tielet, Vålerenga

huwa tal-fehma li hemm il-preżunzjoni li l-bini u t-thaddim ta' stadji tal-futbol ma jaffettwax in-negozju. Ir-raba', huwa sottomess li l-istadji tal-futbol jistgħu jitqiesu bhala infrastruttura soċjali. Il-hames, il-kera tas-suq għal stadju tal-futbol ghandha tkun stabbilita fuq il-baži ta' dak li huma lesti jhallsu x-xerrejja, mhux fuq il-baži ta' jekk l-investment hux ser ikun amortizzat. Is-sitt, l-obbligju li jinbena u jithaddem stadju tal-futbol marbut mat-trasferiment tal-art għandu valur negattiv, li jfisser li m'hemm l-ebda vantaġġ ekonomiku għall-klabb.

II. EVALWAZZJONI

1. IL-PREŻENZA TA' GHAJNUNA MILL-ISTAT

L-Artikolu 61(1) tal-Ftehim dwar iż-ŻEE jgħid hekk:

"Hlief kif provdut mod ieħor f'dan il-Ftehim, kwalunkwe ghajjnuna mogħtija mill-Istati Membri tal-KE, mill-Istati tal-EFTA jew permezz ta' riżorsi tal-Istat fi kwalunkwe forma, tkun xi tkun, li tfixkel jew thedded li tfixkel il-kompetizzjoni billi tiffavorixxi ċerti intrapriži jew il-produzzjoni ta' ċerti oġġetti, sakemm taffetwa n-negozju bejn il-Partijiet Kontraenti, għandha tkun inkompatibbli mal-funzjonament ta' dan il-Ftehim."

Jirrizulta minn din id-dispożizzjoni li, biex tkun preżenti ghajjnuna mill-Istat fis-sens taż-ŻEE, għandhom ikunu ssodisfati dawn il-kondizzjonijiet li ġejjin:

— L-ghajjnuna għandha tingħata permezz ta' riżorsi tal-Istat;

— L-ghajjnuna għandha tiffavorixxi ċerti intrapriži jew il-produzzjoni ta' ċerti oġġetti, jiġifieri l-miżura għandha tagħti vantaġġ ekonomiku lil intrapriża;

— Il-miżura għandha tkun *selettiva* fis-sens tal-Ftehim dwar iż-ŻEE;

— L-ghajjnuna għandha tkun kapaci *tfixkel il-kompetizzjoni* u *taffetwa n-negozju* bejn il-partijiet kontraenti.

Jekk dawn il-kondizzjonijiet jiġux issodisfati għandu jkun evalwat b'mod individwali fir-rigward ta' kull waħda mit-tranzazzjonijiet deskritti hawn fuq.

2. IL-BEJGħ TAT-TITOLI NUMRI 1/152, 1/301 U 1/630 LIL GRUNNSTEINEN AS

Fid-deċizzjoni tal-ftuh ta' proċedura ta' investigazzjoni formali, l-Awtorità esprimiet dubji dwar jekk it-tranzazzjoni saritx skont it-termini tas-suq. L-Awtorità rrikonoxxiet li, bhala kwistjoni ta' prinċipju, tranzazzjoni li permezz tagħha l-prezz imhallas għall-proprjetà jikkonsisti f'obligju li tinbena proprjetà taht l-art għall-muniċipalitá, tista' ssir fuq termini tas-suq. Madankollu, biex l-Awtorità tivverifika jekk dan kienx il-każ, ikun jehtieg li ssir stima tal-valur tal-proprjetà u l-prezz tas-suq tal-bini tal-isparzi għall-parkeġġ ikollu jiġi stabbilit b'mod affidabbli.

Barra minn hekk, fid-deċiżjoni tal-ftuh, l-Awtorità irrilevat li l-istima tal-valur li tressqet mill-awtoritajiet Norveġiżi f'dak il-waqt, li saret minn Eiendomsmeġler 1, kienet tkopri biss wiehed mit-titoli inkwistjoni. L-Awtorità wriet dubji wkoll dwar l-affidabbiltà tal-istima tal-valur tat-titolu numru 1/630, minhabba li l-istima ma stabbilixxietx il-metodu applikat jew ma semmiexx il-karatteristiċi tal-proprjetà li kienu deċiżivi għall-konklużjoni.

L-Awtorità qieset ukoll li l-tranzazzjoni kienet taffettwa n-negozju u l-kompetizzjoni fiż-ŻEE.

Wara d-deċiżjoni tal-ftuh tal-Awtorità, l-awtoritajiet Norveġiżi sstottomettew stima ġdida tal-valur tal-proprjetajiet, kif ukoll stima tal-ispejjeż tal-bini tal-ispazji għall-parkeġġ, li saru minn OPAK. L-Awtorità tosserva li Grunnsteinen ma jistax jitqies li rċieva xi vantaġġ jekk jista' jintwera li l-valur tal-proprjetà kien ugwali għal jew inqas mill-valur negattiv tal-obbligu tal-bini tal-parkeġġ tal-karozzi ta' taht l-art. Biex ikun eżaminat jekk dan kienx il-każ, jehtieg li tiġi evalwata l-affidabbiltà tar-rapport ta' OPAK b'referenza għall-metodu stabbilit fil-Linji gwida tagħha dwar l-Elementi ta' Ghajjnuna mill-Istat fil-Bejgħ ta' Art u Bini minn Awtoritajiet Pubbliċi.

2.1. EVALWAZZJONI TAR-RAPPORT TA' OPAK

Skont il-linji gwida dwar l-Elementi ta' Ghajjnuna mill-Istat fil-Bejgħ ta' Art u Bini minn Awtoritajiet Pubbliċi, il-valur tas-suq tal-proprjetà għandu jkun stabbilit fuq il-bażi ta' indikaturi tas-suq u standards ta' valutazzjoni ġeneralment aċċettati minn stimatur tal-assi ta' reputazzjoni tajba, li għandu jkun indipendenti fit-twettiq tal-kompiti tiegħu. Fl-aħħar nett, l-iżvantaġġ ekonomiku ta' obbligi speċjali għandu jkun ivvalutat b'mod separat u jista' jiġi paċut mal-prezz tax-xiri⁽³⁸⁾.

Stimatur tal-assi ta' reputazzjoni tajba

Ir-rapport ta' stima sar minn OPAK, kumpanija attiva fil-ġestjoni tal-kostruzzjoni, fis-servizzi lis-soċjetajiet ta' sidien tad-djar u fl-istima tal-assi. Ir-rapport inkwistjoni kien elaborat mis-Sur Jacob Aarsheim.

Il-Linji gwida dwar l-Ghajjnuna mill-Istat jipprovdu li "stimatur tal-assi" huwa persuna ta' reputazzjoni tajba li jkun kiseb lawrja xierqa f'ċentru ta' tagħlim rikonoxxut jew kwalifikati akkademici ekwivalenti u li għandu esperjenza adattata u huwa kompetenti fl-istima ta' artijiet u bini fil-lokal u tal-kategorija tal-assi.

L-awtoritajiet Norveġiżi spjegaw li OPAK, u b'mod partikolari s-Sur Aarsheim, għandhom esperjenza konsiderevoli fl-istima ta' proprjetajiet f'din il-kategorija fiż-żona ta' Jæren. L-affermazzjonijiet tagħhom huma ssostanzjati mill-*curriculum vitae* tas-Sur

Aarsheim, li gie mehmuz mal-kummenti tal-awtoritajiet Norveġiżi lill-Awtorità⁽³⁹⁾. Minbarra esperjenza vasta, is-Sur Aarsheim huwa mharreġ fit-teknoloġija tal-kostruzzjoni. Għalhekk, m'hemmx raġuni li wiehed jahseb li OPAK u s-Sur Aarsheim ma jissodisfawx il-kriterji stabbiliti fil-linji gwida u li mhumiex ta' reputazzjoni tajba.

L-indipendenza tal-istimatur tal-assi

Il-Linji gwida dwar l-Ghajjnuna mill-Istat jiddikjaraw li: "L-istimatur għandu jkun indipendenti fit-twettiq tal-kompiti tiegħu, jiġifieri l-Awtoritajiet Pubbliċi m'għandhomx ikunu intitolati li johorġu ordnijiet rigward ir-riżultat tal-istima".

Ir-rapport jirreferi għall-iskop tal-istima, il-preżenza tas-Sur Aarsheim u persuna oħra minn OPAK fiż-żmien meta saret żjara lill-proprjetà. Giet mehmuz wkoll spjegazzjoni dettaljata dwar il-metodu applikat. F'dan l-isfond, l-Awtorità ma tara l-ebda raġuni li tiddubita li l-istimatur tal-assi wettaq il-kompitu tiegħu f'indipendenza totali fis-sens tal-linji gwida.

Stima tal-valur tas-suq fuq il-bażi ta' indikaturi u standards ta' valutazzjoni ġeneralment aċċettati

Il-linji gwida jiddefinixxu "valur tas-suq" bħala l-"prezz li bih l-art u l-bini jistgħu jinbiegħu taht kuntratt privat bejn bejjiegh li jkun irid ibiġh u xerrej indipendenti fid-data tal-istima, bil-preżunzjoni li l-proprjetà tkun esposta pubblikament fuq is-suq, li l-kondizzjonijiet tas-suq jippermettu trasferiment ordnat tal-proprjetà, u li hemm perjodu normali disponibbli għan-negozjati dwar bejgħ, b'konsiderazzjoni għan-natura tal-proprjetà".

Ir-rapport ta' OPAK jistabbilixxi, *inter alia*, il-bażijiet u l-preżunzjonijiet li ġejjin:

- is-sid huwa pożittiv rigward il-bejgħ;
- li l-proprjetà tista' tiġi kkummerċjalizzata liberament għall-bejgħ, fuq perjodu normali ta' żmien;
- li xerrejja li huma lesti li jhallsu prezzijiet għaljin b'mod mhux normali minhabba "interessi speċjali" ma jiġux ikkunsidrati;

(...)

- l-istima ssir f'konformità mar-rutini ta' OPAK għall-istimi tal-valur u korsijiet ta' stima tal-valur ipprovduti mill-UiS.

⁽³⁸⁾ Linji gwida tagħha dwar l-Elementi ta' Ghajjnuna mill-Istat fil-Bejgħ ta' Art u Bini minn Awtoritajiet Pubbliċi, Sezjonijiet 2.2. (a) sa (c).

⁽³⁹⁾ r-risposta tan-Norveġja għad-deċiżjoni tal-ftuh, tal-Awtorità Avveniment Numru 466024, p. 8 u l-Anness 5 (CV).

Minhabba li l-bini fuq il-proprjetà huwa kkundannat u jehtieg li jitwaqqa', OPAK ivvalutat il-valur tat-titoli bhala art li mhix mibnija. Il-metodoloġija applikata, maghrufa bhala "metodu tal-ispejjeż tal-art", hija spjegata kif ġej:

"L-istima tal-proprjetà tiddependi fuq l-użu mistenni u l-potenzjal ta' żvilupp tagħha, inklużi l-profitti mistennija. Parametru dirett għal dan huwa l-ispejjeż tal-art, jiġifieri d-differenza bejn il-valur tas-suq tal-proprjetà żviluppata kollha u l-kostruzzjoni totali inkluż il-margini ta' profitt, iżda eskluża l-ispiża tal-art; maqsuma bin-numru ta' metri kwadri tal-erja tal-art interna, esklużi l-kmamar taht il-livell tal-art." (40) Barra minn hekk, huwa spjegat li l-ispiża tal-art tiddependi fuq id-domanda għal bini f'dik iż-żona, l-ispejjeż ta' kostruzzjoni, u regolamenti applikabbli ta' tqassim ta' territorju. Meta ssir din l-istima, tiġi kkunsidrata wkoll l-esperjenza minn bejgħ ta' art komparabbli fl-istess żona.

Fl-applikazzjoni ta' dan il-metodu, ir-rapport ta' OPAK jasal għal prezz ta' NOK 3,2 miljun bhala stima raġonevoli tal-prezz tal-bejgħ.

L-Awtorità sabet qabel, fid-deċiżjoni tagħha li tirrigwarda l-bejgħ tal-bini tal-Librerija tal-Università f'Ozlo, li l-metodu tal-ispiża tal-art huwa metodu aċċettabbli għal biċċiet ta' art minghajr bini eżistenti (41). L-Assocjazzjoni Norveġiża tal-Istimaturi (NTF), fuq il-paġni web tagħha (42), tirreferi primarjament għal metodi oħrajn, bhall-metodu tal-kapitalizzazzjoni netta, il-metodu ta' likwidità u l-metodu tal-valur tekniku. Madankollu, dawn il-metodi jissopponu minn qabel li hemm bini eżistenti fuq l-art. Minhabba li l-bini fuq il-proprjetà inkwistjoni huwa kkundannat, l-Awtorità tqis li l-metodu tal-ispiża tal-art huwa metodu ta' stima aċċettabbli għat-tliet titoli f'dan il-każ.

L-iżvantaġġ ekonomiku ta' obbligi speċjali

Skont il-linji gwida, "obbligi [s]peċjali relatati mal-art u l-bini u mhux max-xerrej jew mal-attivitajiet ekonomiċi tiegħu jistgħu jiżiedu mal-bejgħ fl-interess pubbliku kemm-il darba kull xerrej potenzjali jkun mehtieg, u fil-prinċipju jkun kapaċi, li jissodisfahom, irrispettivament minn jekk għandux negozju jew le jew min-natura tan-negozju tiegħu. L-iżvantaġġ ekonomiku ta' obbligi bħal dawn għandu jkun ivvalutat b'mod separat minn stimaturi indipendenti u jistgħu jiġu paċuti mal-prezz tax-xiri."

L-Awtorità tikkonsidra li l-obbligu li jinbena parkeġġ tal-karozzi taht l-art huwa obbligu speċjali bħal dawn, li mhux relatat max-xerrej. Barra minn hekk, l-ispejjeż ta' twaqqiġ tal-bini kkundannat jistgħu jkunu vvalutati u paċuti skont l-istess prinċipji.

(40) Il-valutazzjoni ta' OPAK tat-titoli numri 1/152, 1/301 u 1/630 (l-Anness 3 għall-Avveniment Numru 466024).

(41) Deċiżjoni tal-Awtorità Numru 170/05/COL tad-29 ta' Ġunju 2005 dwar Bejgħ ta' Proprjetajiet Pubbliċi - Bini tal-Librerija tal-Università u Parti minn Proprjetà Maġenbha f'Ozlo.

(42) <http://www.ntf.no/naring.aspx>

Fir-rigward tal-obbligu li jinbnew spazi għall-parkeġġ taht l-art, l-istima tal-ispiża hija bbażata fuq il-linji gwida mahruġa minn awtoritajiet pubbliċi u minn istitut tal-inġinerija indipendenti (43) li jitolbu 25 metru kwadru għal kull spazju ta' parkeġġ u l-esperjenza tal-ispejjeż ta' kostruzzjoni għal parkeġġi ta' karozzi taht l-art. OPAK tiddikjara li dan il-metodu ta' kalkolu tal-prezz huwa Prattika Industrijali Normali. Fuq din il-bażi, OPAK tasal għal prezz ta' NOK 130 000 għal kull spazju ta' parkeġġ, jew NOK 8 450 000 għal 65 spazju għall-parkeġġ, minbarra t-taxxa fuq il-valur miżjud u l-ispejjeż tal-art.

L-ispejjeż ta' twaqqiġ, inklużi l-hlasijiet għall-ġbir u l-għażla tal-iskart, ġew stabbiliti fuq il-bażi tal-esperjenza minn xoghlijiet simili ta' twaqqiġ. OPAK tistma li dawn l-ispejjeż jistgħu jitolbu għal NOK 150 000.

L-Awtorità tfakkar li għalkemm hija marbuta li tevalwa l-kontenut ta' opinjonijiet esperti sottomessi minn partijiet esterni, mhix marbuta li tqabba il-konsulenti esterni tagħha stess. (44) Wara li eżaminat il-kalkoli tal-ispejjeż, li saru minn expert indipendenti b'għarfien teknoloġiku suffiċjenti fil-qafas ta' stima tal-valur tal-proprjetà bhala tali, u fuq il-bażi tal-ispezzjoni tal-bini, l-Awtorità hija tal-fehma li dawn il-kalkoli jikkonformaw mal-linji gwida ta' għajnuna mill-Istat. L-ispejjeż kif stmati jistgħu, għalhekk, jiġu paċuti mal-prezz tax-xiri.

2.2. KONKLUŻJONI DWAR L-ELEMENT TA' GĦAJNUNA MILL-ISTAT FIL-BEJGĦ TAT-TITOLI NUMRI 1/152, 1/301 U 1/630 LIL GRUNNSTEINEN AS

Abbazi tal-istima msemmija hawn fuq tar-rapport ta' OPAK, l-Awtorità tikkonkludi li minhabba li l-iżvantaġġ ekonomiċi tal-obbligu li jinbnew l-ispażji għall-parkeġġ taht l-art u l-ispiża tat-twaqqiġ tal-bini kkundannat huma stmati li jammontaw għal total ta' NOK 8.6 miljun, u l-valur tal-proprjetà huwa stmat għal NOK 3.2 miljun, it-tranzazzjoni ma tagħti l-ebda vantaġġ ekonomiku lil Grunnsteinen AS. Minhabba li l-valur negattiv tal-iżvantaġġ ekonomiċi jaqbeż b'mod sinjifikanti l-valur pożittiv tal-proprjetà, din il-konklużjoni mhix influwenzata minn xi margini raġonevoli ta' żball jew mill-fatt li OPAK tiddikjara li l-istima ta' proprjetajiet bħal dawn hija tassew incerta.

L-Awtorità tosserva, madankollu, li d-differenza fil-valur bejn l-obbligu li tassumi Grunnsteinen u l-valur tal-proprjetà huwa tant sinjifikanti li jista' jindika li l-valur tas-suq li OPAK waslet għalih jista' jkun incert. Madankollu, minhabba d-diskrepanza sinjifikanti, anki riagġustament imdaqas tal-valuri misjuba minn OPAK ma jwassalx għall-konklużjoni li Grunnsteinen irċeviet vantaġġ.

F'dan l-isfond, l-Awtorità tikkonkludi li t-trasferiment tat-titoli numri 1/152, 1/301 u 1/360 lil Grunnsteinen ma kinux jinvolvu għajnuna mill-Istat fis-sens tal-Artikolu 61(1) taż-ŻEE.

(43) Norges byggforskingsinstitutt u Statens vegvesen.

(44) Kawża T-274/01 *Valmont vs Il-Kummissjoni* [2004] Ġabra II-3145 paragrafu 72.

3. IL-BEJGH TAT-TITOLU NUMRU 4/165 LIL BRYNE INDUSTRIAPARK AS

Fid-deċiżjoni ta' ftuh ta' investigazzjoni formali, l-Awtorità esprimiet dubji li l-prezz ta' NOK 4.7 miljun għall-proprjetà ta' 56 000 metru kwadru jikkorrispondi għall-prezz tas-suq. Id-dubji tal-Awtorità kienu bbażati, *inter alia*, fuq il-fatt li l-municipalità ddikjarat li l-proprjetà kienet giet mibjugħa skont kemm tiswa, politika li aktar tard giet abbandunata minhabba li kien maħsub li ser twassal biex l-art tinbiegħ wisq bl-irhis. Barra minn hekk, minhabba li ma kienet saret l-ebda stima tal-valur, l-Awtorità ma kinitx konvinta mill-paragun li sar ma' bejgh ta' proprjetajiet oħrajn fir-reġjun.

B'risposta għall-ordni biex tinghata informazzjoni li saret mill-Awtorità fid-deċiżjoni tal-ftuh, l-awtoritajiet Norveġiżi sottomettew stima tal-valur tal-proprjetà li saret minn OPAK. B'hekk, għandu jiġi kkunsidrat jekk l-istima sottomessa tilhaq l-istandards stabbiliti fil-linji gwida tal-Awtorità

3.1. EVALWAZZJONI TAR-RAPPORT TA' OPAK

Skont il-linji gwida tal-Awtorità dwar l-ghajnuna mill-Istat, il-valur tas-suq tal-proprjetà għandu jkun stabbilit fuq il-bażi ta' indikaturi tas-suq ġeneralment aċċettati u standards ta' valutazzjoni minn stimatur tal-assi ta' reputazzjoni tajba, li għandu jkun indipendenti fit-tweqqif tal-kompiti tiegħu.

Stimatur tal-assi ta' reputazzjoni tajba

Il-kwalifiki u r-reputazzjoni ta' OPAK, u b'mod partikolari tas-Sur Aarsheim, ġew ivvalutati hawn fuq. Fid-dawl tal-istima, l-Awtorità tqis li r-rapport li jappartjeni għat-titolu numru 4/165 ukoll sar minn stimatur tal-assi ta' reputazzjoni tajba.

L-indipendenza tal-istimatur tal-assi

L-Awtorità ma rat l-ebda indikazzjoni li l-istimatur tal-assi ma kienx indipendenti. Is-Sur Aarsheim ġej minn kumpanija magħrufa ta' valutazzjoni tal-assi li m'għandhiex rabtiet formali mal-municipalità. Ir-rapport jstabbilixxi wkoll l-iskop tal-istima, u jikkonferma li s-Sur Aarsheim żar il-proprjetà u jiddeskrivi l-metodu applikat fid-dettall. Fuq dik il-bażi, l-Awtorità m'għandha l-ebda raġuni li tiddubita li l-istima saret findipendenza shiha minn kwalunkwe ordni mill-municipalità fir-rigward tar-riżultat tal-istima.

Stima tal-valur tas-suq fuq il-bażi ta' indikaturi u standards ta' valutazzjoni ġeneralment aċċettati

Kif deskritt aktar "il fuq, OPAK tistabbilixxi għadd ta' preżunzjonijiet għall-istima tagħha, inkluża l-preżunzjoni li l-bejjiegh irid ibiġh u li l-proprjetà tista' tiġi kkummerċjalizzata fuq perijodu normali ta' żmien.

OPAK ivvalutat il-valur tal-proprjetà fuq il-bażi li ma kinitx soġġetta għal pjan ta' tqassim ta' territorju, iżda biss għal riżerva ġenerali għal skopijiet industrijali. Ir-raġuni għal dan hija li l-pjan ta' tqassim tat-territorju propost bħala art industrijali ġie rtirat qabel ma ġie ffirmat il-kuntratt, minhabba oġġezzjonijiet mill-Amministrazzjoni Nazzjonali Pubblika tat-Toroq.⁽⁴⁵⁾ Il-pjan ta' tqassim ta' territorju li ġie adottat aktar tard kien, skont OPAK, differenti hafna mill-pjan li kien ġie rtirat, minhabba li ż-żona kienet allokata għal skopijiet sportivi, mhux għal skopijiet industrijali.

Ir-rapport jiddefinixxi "il-valur tal-bejgh huwa l-prezz li bosta xerreġja indipendenti potenzjali interessati fil-proprjetà huma lesti li jhallsu fid-data tal-istima." B'kuntrast mal-istima tal-proprjetajiet ittrasferiti lil Grunnsteinen, OPAK ma tapplikax, fil-każ ta' Hålandsmarka, il-metodu tal-ispiza tal-art jew xi wiehed mill-metodi preferiti mill-NTF li jirrigwardaw bini. Minflok, il-prezz huwa stabbilit permezz ta' paragun ma' biċċiet ta' art mibjugħa fiż-żona (valuri komparattivi tal-bejgh).

OPAK tiddikjara li l-prezzijiet komparabbli fiż-żona jvarjaw minn NOK 80 kull metru kwadru (bejgh bejn parti privata u l-municipalità) sa NOK 115 kull metru kwadru (bejgh bejn żewġ partijiet privati). OPAK tirreferi wkoll għal deċiżjoni ta' stima mill-ġdid fi Stavanger, li stabbiliet prezz ta' NOK 140 għal kull metru kwadru għal plottijiet riżervati għall-kostruzzjoni ta' djar f'post ċentrali hafna. Skont OPAK, dan jikkorrispondi għal prezz ta' madwar NOK 90 għal kull metru kwadru għaž-żona industrijali f'dan il-każ. OPAK tirrikonoxxi li l-kondizzjonijiet tas-suq huma incerti u, għalhekk, tissuggerixxi li l-prezz tas-suq għandu jkun bejn NOK 80 u 100 għal kull metru kwadru, jew bejn 4 510 000 u 5 636 000 għall-erja kollha. F'dak l-isfond, l-istima ta' OPAK għall-valur tal-bejgh hija fin-nofs ta' dik il-medda, NOK 5 100 000.

Fid-deċiżjoni tal-ftuh tagħha, l-Awtorità kienet xettika li tistrieħ fuq il-paragun tal-municipalità tal-prezzijiet miksuba għal proprjetajiet oħrajn f'dik iż-żona, *inter alia*, għax kien jidher li, minkejja l-oġġezzjonijiet mill-Amministrazzjoni Pubblika tat-Toroq, il-pjan ta' tqassim tat-territorju għaž-żona kien diġà ġie adottat, u, għaldaqstant, li ma jkunx sew li titqabbel l-art ma' żoni fejn ma kien jeżisti l-ebda pjan ta' tqassim ta' territorju. Madankollu, l-awtoritajiet Norveġiżi irrilevaw, fil-kummenti tagħhom għad-deċiżjoni tal-ftuh, li l-oġġezzjonijiet mill-Amministrazzjoni Pubblika tat-Toroq kienu magħrufa meta sar il-bejgh u li, b'konsegwenza ta' dan, ma kien hemm l-ebda pjan ta' tqassim ta' territorju. Barra minn dan, pjan ta' tqassim tat-territorju għal din iż-żona ġie adottat biss f'Awwissu 2007, jiġifieri sentejn wara l-bejgh, u ż-żona mbagħad giet allokata għal għanijiet sportivi. Għalkemm waqt it-tranżazzjoni l-partijiet ma kinux konxji mis-sensiela ta' avvenimenti li sehew wara, dawn il-fatti jsahhu l-konkluzjoni li l-irtirar tal-pjan originali ta' tqassim tat-territorju kien ġenwin u li wiehed kien jistenna bidliet sinjifikanti filh.

Għaldaqstant, l-Awtorità tqis li l-preżunzjonijiet li fuqhom OPAK ibbażat ir-rapport tagħha, jiġifieri li ma japplika l-ebda pjan ta' tqassim tat-territorju fil-mument tal-bejgh, huma aċċettabbli.

⁽⁴⁵⁾ Klawnsola 1(3) tal-ftehim tal-bejgh, Avveniment Numru 428860.

Rigward il-metodu ta' valutazzjoni applikat minn OPAK, l-Awtorità tirrileva li valuri ta' bejgħ komparattivi jidhru inqas eżatti minn metodi oħrajn deskritti mill-NTF, minhabba li l-karatteristiċi u l-użu mistenni tal-proprjetà jiġu kkunsidrati inqas. Madankollu, l-Awtorità tifhem mill-istimi ta' OPAK li l-metodu ta' spiża tal-art, minhabba li huwa marbut sewwa mal-isfruttament massimu permess tal-art, ma jistax jintuża b'mod faċli meta ma jeżisti l-ebda pjan ta' tqassim tat-territorju. F'dan ir-rigward, għandu jingħad li l-NTF issemmi wkoll valuri ta' bejgħ komparattivi bħala wiehed mill-metodi aċċettabbli għall-istima ta' art industrijali ⁽⁴⁶⁾.

F'dak l-isfond, l-Awtorità ssib li r-rapport ta' OPAK għandu jitqies li huwa bbażat fuq indikaturi u standards ta' valutazzjoni generalment aċċetati.

3.2. KONKLUŻJONI DWAR L-ELEMENT TA' GĦAJNUNA MILL-ISTAT FIL-BEJGĦ TAT-TITOLU NUMRU 4/165 LIL BRYNE INDUSTRI-PARK

Il-prezz tal-bejgħ lil Bryne Industripark kien ta' NOK 470 000. Dan huwa fil-limiti l-baxxi tal-firxa ta' prezzijiet stabbilita minn OPAK (NOK 4 510 000 sa NOK 5 636 000), u kemxejn inqas mill-valur tal-bejgħ smat ta' NOK 5.1 miljun.

Jirriżulta mill-gurisprudenza tal-Qorti tal-Prim'Istanza li l-Awtorità, meta teżamina stimi ta' valur li jitressqu quddiemha waqt proċedura ta' għajjnuna mill-Istat li tirrigwarda l-bejgħ ta' art u bini minn awtoritajiet pubbliċi, għandha "tiddetermina jekk [il-prezz tal-bejgħ] jiddevjax *biżżejjed* li jiġġustifika l-konklużjoni li hemm xi benefiċċju" ⁽⁴⁷⁾ (enfasi miżjuda). Barra minn hekk, it-tranzazzjoni f'dan il-każ tikkonċerna art mhux żviluppata u mhux soġġetta għal pjan ta' tqassim tat-territorju, li l-valur tagħha, skont OPAK, ma jistax ikun stabbilit b'ċertezza. B'hekk, il-valur tas-suq reali tal-proprjetà jista' wkoll ikun fil-limiti l-baxxi tal-firxa ta' prezzijiet stabbiliti minn OPAK, li jikkorrispondu għall-prezz li fil-fatt hallset Bryne Industripark. F'dak l-isfond, l-Awtorità tikkonkludi li ma jistax ikun stabbilit li l-prezz tal-proprjetà ta' xi benefiċċju lil Bryne Industripark fis-sens tar-regolamenti dwar l-għajjnuna mill-Istat.

Għaldaqstant, it-tranzazzjoni ma tinvolvi l-ghoti ta' għajjnuna mill-Istat, fis-sens tal-Artikolu 61(1) taż-ŻEE, lil Bryne Industripark.

4. IL-BEJGĦ TAT-TITOLI NUMRI 2/70 U 2/32 (BRYNE STADION) LIL BRYNE FK

Fid-deċiżjoni tal-ftuħ ta' proċedura ta' investigazzjoni formali, l-Awtorità esprimiet dubji li t-trasferiment lil Bryne FK għal NOK 0 seħħ skont il-kundizzjonijiet tas-suq. Barra minn hekk, l-Awtorità kkunsidrat li Bryne FK, fuq il-bażi tal-informazzjoni disponibbli għaliha f'dak iż-żmien, x'aktarx li kien jaq' taht

id-definizzjoni ta' intrapriża għall-fini tar-regolamenti dwar l-għajjnuna mill-Istat, li twettaq attivitajiet ekonomiċi li jistgħu jaffettwaw il-kummerċ fiż-ŻEE. Fuq dik il-bażi, l-Awtorità kienet tal-fehma preliminari li t-tranzazzjoni setgħet tinvolvi riżorsi tal-Istat, tat vantaġġ lil intrapriża, u li setgħet taffettwa l-kummerċ fiż-ŻEE.

Informazzjoni ġdida saret disponibbli għall-Awtorità permezz tal-proċedura ta' investigazzjoni formali.

F'kummenti għad-deċiżjoni ta' ftuħ tal-proċedura ta' investigazzjoni formali u b'risposta għall-ordni biex tingħata informazzjoni li saret mill-Awtorità, l-awtoritajiet Norveġiżi pprovdew, l-ewwel, stima tal-valur tat-titoli ttrasferiti, u t-tieni, aktar informazzjoni dwar l-istruttura organizzattiva tal-klabb tal-futbol fil-mument tat-tranzazzjoni. F'dak li jirrigwarda l-istruttura organizzattiva, ġie rrilevat li l-klabb kien jikkonsisti f'żewġ entitajiet, jiġifieri Bryne ASA u Bryne FK.

4.1. RIŻORSI TAL-ISTAT

L-Artikolu 61(1) tal-Ftehim dwar iż-ŻEE jitlob li miżura għandha tingħata mill-Istat jew minn riżorsi statali sabiex din tkun ikkunsidrata bħala għajjnuna mill-Istat.

L-Awtorità tfakkar li, skont giurisprudenza stabbilita, id-definizzjoni ta' għajjnuna hija aktar ġenerali minn dik ta' sussidju, minhabba li tinkludi mhux biss benefiċċji pożittivi, bhas-sussidji nfušom, iżda wkoll miżuri tal-Istat li, f'forom differenti, itaffu l-piżijiet li normalment ikunu inkluzi fil-baġit ta' intrapriża u li għalhekk, mingħajr ma huma sussidji fis-sens strett tal-kelma, huma simili fin-natura tagħhom u għandhom l-istess effett ⁽⁴⁸⁾. It-telf tad-dhul mill-Istat f'bejgħ taht il-valur tas-suq ukoll jaq' taht il-kunċett ta' riżorsi statali.

Għaldaqstant, biex ikun iddeterminat jekk kinux involuti riżorsi tal-Istat fil-bejgħ tat-titoli numri 2/70 u 2/32 lil Bryne FK, għandu jkun iddeterminat il-valur tas-suq tagħhom. F'każ li l-municipalitá kienet bieghethom għal prezz taht il-valur tas-suq, kienu jkunu ġew ikkunsmati riżorsi tal-Istat fil-forma ta' dhul mitluf.

L-awtoritajiet Norveġiżi ressqu stima tal-valur tal-art li fuqha kien mibni l-istadju, li saret minn OPAK. Bħal ma ntqal aktar 'il fuq, l-istima tal-valur għandha tkun eżaminata waqt li jitqiesu l-linji gwida tal-Awtorità.

⁽⁴⁶⁾ Ara n-nota f' qiegħ il-paġna nru 2.

⁽⁴⁷⁾ Kawża T-274/01 *Valmont*, iċċitata iktar 'il fuq, paragrafu 45, u l-Kawża Magħquda T-127/99, T-129/99 u T-148/99 *Diputación Foral de Alava* [2002] Ġabra II-1275, paragrafu 85.

⁽⁴⁸⁾ Ara, b'mod partikolari, il-Kawża C-143/99 *Adria-Wien Pipeline u Wietersdorfer & Peggauer Zementwerke* [2001] Ġabra I-8365, paragrafu 38; Kawża C-501/00 *Spanja vs Il-Kummissjoni* [2004] Ġabra I-6717, paragrafu 90, u l-Kawża C-66/02 *L-Italja vs Il-Kummissjoni* [2005] Ġabra I-0000, paragrafu 77.

Stimatur tal-assi indipendenti ta' reputazzjoni tajba

Fl-evalwazzjoni tar-rapport, l-Awtorità tinnota li l-istess stimatur tal-assi, OPAK/is-Sur Aarsheim, ghamlu din l-istima. L-Awtorità diġà kkonkludiet li OPAK u s-Sur Aarsheim jissodisfaw ir-rekwiżit fil-linji gwida li l-istimatur tal-assi ghandu jkollu reputazzjoni tajba. Barra minn hekk, l-Awtorità m'għandha l-ebda raġuni biex temmen li s-Sur Aarsheim ma kienx indipendenti fit-twettiq tal-istima.

Stima tal-valur tas-suq fuq il-bażi ta' indikaturi u standards ta' valutazzjoni ġeneralment aċċettati

Fid-dawl tan-natura speċjali tal-proprjetà in kwistjoni, huwa neċessarju li wiehed jeżamina l-metodu applikat f'ċertu dettall sabiex ikun determinat jekk l-istima saritx fuq il-bażi ta' indikaturi u standards ta' valutazzjoni ġeneralment aċċettati.

L-istima fiha, l-ewwel, deskrizzjoni tal-użu attwali tal-art, jiġifieri, grawnd tal-futbol, pista tal-ġiri, kampijiet tat-tahriġ, tribuna u swali għat-tahriġ. Iz-żona hija allokata għal skopijiet sportivi fil-pjan ta' tqassim ta' territorju applikabbli, datat 28 ta' Ottubru 1997. OPAK tiddikjara li, bhala punt ta' tluq, il-valur tal-art ghandu jkun ibbażat fuq l-isfruttament permissibbli tal-art. Madankollu, OPAK tikkonkludi li minhabba li diġà hemm mibnija faċilitajiet sportivi fuq l-art, u, għalhekk, m'hemmx sfruttament permissibbli, għandha tkun applikata metodoloġija differenti. Minhabba li l-istadju rċieva fondi tal-logħob⁽⁴⁹⁾, OPAK tirreferi għall-kondizzjonijiet li jirregolaw dawn il-fondi, li jipprovdu li l-faċilitajiet għandhom jinżammu miftuħa u jintużaw għal 40 sena, inkella l-fondi jridu jingħataw lura. Barra minn hekk, biex wiehed ikun jista' jistma l-valur tal-art taht pian alternattiv ta' tqassim tat-territorju, it-termini ta' pian bħal dan għandhom ikunu magħrufa. F'dan l-isfond, OPAK tikkonkludi li l-istadju jista' jkun ivvalutat biss bhala proprjetà għall-iżvilupp ta' faċilitajiet sportivi. L-istima hija, għaldaqstant, ibbażata fuq paragun ma' art industrijali mibjugħa fiż-żona, u jsir tnaqqis fuq il-bażi li m'hemmx żoni kummerċjali li jipproduċu dhul fil-pjan ta' tqassim ta' territorju attwali. OPAK tikkonkludi li l-prezz tas-suq ghandu jkun fil-medda ta' NOK 2 385 000 sa NOK 2 915 000, u tistma NOK 2 650 000 bhala l-valur tal-bejgħ.

L-Awtorità tinnota, bhala punt ta' tluq, li l-istima mhix ibbażata fuq xi wiehed mill-metodi ppreferuti stabbiliti mill-Assoċjazzjoni Norveġiża ta' Stimaturi tal-Assi. Lanqas ma hi bbażata fuq paragun dirett ma' proprjetajiet simili.

Madankollu, l-Awtorità tirrikonoxxi li stadju tal-futbol huwa tip ta' proprjetà uniku, u bhala tali, huwa diffiċli li jsir paragun dirett ma' tipi oħrajn ta' proprjetajiet. Barra minn hekk, l-Awtorità tikkonsidra li, minhabba n-nuqqas ta' pian ta' tqassim ta'

territorju alternattiv u l-iżvantaġġ ekonomiku li jirriżulta mill-obbligu ta' rimbors f'każ ta' tqassim mill-ġdid tat-territorju, stima tal-valur ibbażata fuq il-pjan attwali ta' tqassim tat-territorju tidher li tirrifletti l-aħjar il-valur tal-art attwalment ittrasferita. Fl-aħhar nett, l-Awtorità tirrikonoxxi d-diffikultà relatata ma' stimi ta' valur ta' proprjetajiet allokatu għal skopijiet sportivi, li, skont ir-regoli attwali tat-tqassim tat-territorju, ma jistgħux jintużaw bhala żoni kummerċjali li jipproduċu dhul. F'dawn iċ-ċirkostanzi, l-Awtorità tikkonkludi li l-metodu applikat minn OPAK/is-Sur Aarsheim huwa aċċettabbli għall-istima tal-prezz tas-suq, għalkemm kwalunkwe prezz bħal dan huwa, inevitabbilment, incert hafna. Pereżempju, l-Awtorità tikkonkludi li l-valur tas-suq jista' jitnaqqas aktar minhabba l-fatt li l-klabb diġà kellu ftehim ta' kiri għall-art, li, b'konsegwenza ta' dan, huwa ta' piż fuq il-proprjetà għal xerrej iehor. B'dawn ir-riżervi, l-Awtorità tqis ir-rapport dettaljat u sostanzjat biżżejjed biex ikun jista' jindika, bi grad suffiċjenti ta' ċertezza, dak li x'aktarx ikun il-valur.

Minhabba li l-Muniċipalitá ta' Time ttrasferiet il-proprjetà lil Bryne FK għall-prezz ta' NOK 0 filwaqt li kellha valur smat ta' madwar NOK 2 650 000, l-Awtorità tikkonkludi li f'din it-tranzazzjoni kienu involuti r-riżorsi tal-Istat.

4.2. VANTAĠĠ EKONOMIKU LIL INTRAPRIŻA

(a) Il-preżenza ta' vantaġġ ekonomiku

Peress li l-proprjetà kienet ittrasferita lil Bryne FK għal NOK 0, hemm differenza ċara bejn il-prezz imhallas u l-valur tas-suq probabbli tal-proprjetà. L-Awtorità għalhekk tikkonkludi li l-tranzazzjoni tagħti vantaġġ ekonomiku lil Bryne FK minhabba li l-klabb ma kellux iħallas għall-art il-valur li kellha skont ikondizzjonijiet tas-suq.

(b) Bryne FK bhala intrapriża għall-fini tar-regolamenti dwar l-ghajnuna mill-Istat

Wara, għandu jiġi evalwat jekk Bryne FK għandux jitqies bhala intrapriża għall-finijiet tar-regolamenti dwar l-ghajnuna mill-Istat. Għal dak il-ghan, għandu jiġi mfakkar li l-kuncett ta' intrapriża jinkludi kull entità impenjata f'attività ekonomika, irrispettivament mill-istatus legali tal-entità u l-mod kif hija ffinanzjata, u li kwalunkwe attività li tikkonsisti fl-offerta ta' prodotti u servizzi fuq suq partikolari hija attività ekonomika⁽⁵⁰⁾.

Bryne FK għandu tim professjonali jew semi-professjonali li bhalissa qieghed jilgħab fid-diviżjoni ta' taht il-kampjonat tal-premier, u, fil-mument tat-tranzazzjoni, fil-kampjunat tal-premier. Fid-deċiżjoni tal-ftuħ, il-kwalifikazzjoni preliminari tal-Awtorità ta' Bryne FK bhala intrapriża kienet ibbażata fuq il-fatt li xi whud mill-attivitajiet tiegħu, jiġifieri l-bejgħ u x-xiri ta' plejers professjonali, il-provvediment ta' divertiment fil-forma

⁽⁴⁹⁾ Fondi tal-logħob huma l-qliġ tal-kumpanija tal-logħob tal-Istat Norsk Tipping. Skont ir-regoli stabbiliti mill-Ministeru tal-Kultura u tal-Affarijiet tal-Knisja, faċilitajiet bħal dawn għandhom jinżammu miftuħa għal 40 sena mid-data li jitlestew. Ara l-fuljett "Om tilskudd til anlegg for idrett og fysisk aktivitet - 2008", Kapitolu 4.9, http://www.regjeringen.no/upload/KKD/Idrett/V-0732B_web.pdf

⁽⁵⁰⁾ Ara s-sentenza tal-Qorti tal-EFTA fil-Kawża E-5/07, *Private Barnehaegers Landsforbund vs L-Awtorità ta' Sorveljenza tal-EFTA*, paragrafu 78, u l-Kawża C-218/00 *Cisal* [2002] Ġabra I-691, paragrafu 23.

ta' partiti tal-futbol, u l-provvediment ta' spazju ta' reklamar, deheru li kienu offruti fuq suq, u, ghaldaqstant, kienu ta' natura ekonomika. L-Awtorità ma tistax tara li tressqu argumenti godda li jistgħu jbiddu l-konkluzjoni tagħha waqt il-proċedura ta' investigazzjoni formali. Ghaldaqstant, għandu jkun konkluz li f'dak li jirrigwarda dawn l-attivitajiet, Bryne FK huwa intrapriża għall-fini tar-regolamenti dwar l-għajnuna mill-Istat.

Madankollu, l-Awtorità tinnota li 89 fil-mija tal-attivitajiet totali ta' Bryne FK, imkejla permezz tan-numru ta' sghat ta' attività, jirrigwardaw attivitajiet ta' futbol mhux professjonali, jiġifieri l-organizzazzjoni ta' attivitajiet għat-tfal u ż-żgħażaġh⁽⁵¹⁾.

Skont il-ġurisprudenza tal-Qorti tal-Ġustizzja Ewropea, il-prattika tal-isports hija soġġetta għal-liġi taż-ŻEE biss safejn tirrappreżenta attività ekonomika fis-sens tal-Ftehim dwar iż-ŻEE. Dan japplika għal attivitajiet ta' plejers professjonali jew semi-professjonali offruti fuq is-suq⁽⁵²⁾. Kif imsemmi qabel, dawn l-attivitajiet kienu kkonċentrati fi hdan il-kumpanija Bryne ASA. Minnaħa l-oħra, l-attivitajiet offruti minn Bryne FK lil 600 plejer tal-futbol żgħażuġh fil-klabb isiru fuq bażi mhux ta' profit u l-parti l-kbira fuq il-baży ta' xogħol volontarju minn ġenituri u oħrajn⁽⁵³⁾.

Imbagħad, għandu jkun innutat li, fil-prattika tal-Kummissjoni Ewropea, ġie stabbilit li l-provvediment ta' attivitajiet sportivi bħal dawn għall-benefiċċju tat-tfal u taż-żgħażaġh, m'humix attivitajiet ekonomiċi għall-fini tar-regolamenti dwar l-għajnuna mill-Istat. F'każ li kien jikkonċerna l-appoġġ pubbliku għal attivitajiet sportivi organizzati minn klabb sportivi professjonali għal żgħażaġh fi Franza, il-Kummissjoni sabet li l-appoġġ għall-edukazzjoni ċivika, akkademika u sportiva għaż-żgħażaġh jista' jitqies bħala komputu ġenerali li jaqa' fuq l-Istat fil-qasam tal-edukazzjoni. Sal-punt li din l-edukazzjoni hadet post dak li qabel kien magħruf bħala "studji sportivi", filwaqt li żammet il-karatteristiċi u l-organizzazzjoni ġenerali, l-appoġġ fil-kwistjoni jibbenefika attivitajiet fil-qasam tal-edukazzjoni u, għalhekk, jaqa' barra l-qasam tal-kompetizzjoni. Barra minn hekk, xi whud mill-attivitajiet appoġġjati kellhom l-għan li jnaqqsu l-vjolenza fost il-partitarji u attivitajiet fil-komunità. Il-Kummissjoni qieset li attivitajiet bħal dawn jistgħu jkunu definiti bħala li jikkontribwixxu għall-edukazzjoni ċivika fis-sens wiesa'. Ghaldaqstant, hija kkonkludiet li l-miżuri inkwistjoni kienu komparabbli ma' attivitajiet edukattivi li huma responsabbli tas-sistema edukattiva nazzjonali, wiehed mill-kompiti ġenerali tal-Istat⁽⁵⁴⁾.

F'dak ir-rigward, għandu jkun innutat li l-Assoċjazzjoni Norveġiża tal-Futbol (NFF) irrilevat li, fil-prinċipju, hija responsabbli tal-pubbliku li joffri u jorganizza attivitajiet sportivi għat-tfal/ż-

għażaġh fl-ambjent lokali tagħhom. Il-klabbs, f'kooperazzjoni ma' awtoritajiet lokali u l-Assoċjazzjoni, jassumu parti konsiderevoli mir-responsabbiltà għall-iżvilupp ta' faċilitajiet u l-organizzazzjoni ta' attivitajiet fil-livelli kollha. Barra minn hekk, NFF irrilevat li l-awtoritajiet Norveġiżi ripetutament enfasizzaw l-impatt pożittiv tal-futbol bħala mekkaniżmu ta' inkluzjoni soċjali⁽⁵⁵⁾.

Minhabba li l-klabbs, kif irrilevat mill-NFF, jorganizzaw attivitajiet tal-futbol għat-tfal u ż-żgħażaġh u b'hekk jipprovdu servizz edukattiv fil-qasam tal-isports u mezz għall-inkluzjoni soċjali u l-mobilità, l-Awtorità tqis li l-attivitajiet rikreattivi tal-futbol organizzati minn Bryne FK jistgħu jitqiesu bħala komputu mwettaq fl-interess ġenerali, simili għal attivitajiet edukattivi. Ghaldaqstant, attivitajiet bħal dawn ma jirrapprezentaw attivitajiet ekonomiċi fis-sens tad-dispożizzjonijiet tal-Ftehim dwar iż-ŻEE dwar l-għajnuna mill-Istat.

Fid-dawl ta' dan, l-Awtorità tikkonkludi li, fir-rigward tal-attivitajiet mhux professjonali tiegħu, Bryne FK ma jistax jitqies bħala intrapriża għall-finijiet tar-regolamenti dwar l-għajnuna mill-Istat.

(c) L-ebda benefiċċju għall-attivitajiet ekonomiċi tal-klabb

Il-Kummissjoni Ewropea sabet li, meta klabb sportiv iwettaq attivitajiet ekonomiċi kif ukoll mhux ekonomiċi, l-ebda għajnuna mill-Istat ma tkun preżenti jekk il-klabb, permezz ta' kontabilità separata, jiżgura li l-attivitajiet ekonomiċi ma jirċievu l-ebda vantaġġ⁽⁵⁶⁾. Il-pass li jmiss fl-evalwazzjoni għalhekk għandu jiffoka fuq jekk il-vantaġġ li jikkonsisti fit-trasferiment ta' proprjetà għal prezz taht il-prezz tas-suq stmat, ibbenefikax fil-fatt l-attivitajiet ekonomiċi tal-klabb.

Bħala punt tat-tluq, għandu jkun innutat li l-klabb, fil-mument tat-tranzazzjoni, kien jikkonsisti f'żewġ entitajiet legali, jiġifieri Bryne FK u Bryne Football ASA. It-tqasim tal-kompiti u r-relazzjonijiet ekonomiċi bejn iż-żewġ entitajiet kienu stabbiliti fi ftehim ta' kooperazzjoni li daħlu fih il-klabb u l-kumpanija fis-sena 2000.

Taht il-ftehim ta' kooperazzjoni bejn iż-żewġ entitajiet, Bryne Football ASA kienet responsabbli mit-twettiq tal-attivitajiet ekonomiċi bħal ftehimiet ta' sponsorjar, il-bejgħ ta' drittijiet tat-televiżjoni u tal-midja, il-provvediment ta' spazju ta' reklamar fl-istadju, il-bejgħ u l-liċenzjar ta' parafernalia għall-partitarji u l-isfruttament kummerċjali tal-plejers u l-isem u l-logo tal-klabb, il-bejgħ ta' biljetti għal-logħbiet tal-klabb li jintlagħbu fil-grawnd tiegħu u ftehimiet li jikkonċernaw attivitajiet tat-tombli (Klawżola 2.1).

⁽⁵¹⁾ Avveniment Numru 485026 (kummenti tal-partijiet terzi minn Bryne FK.)

⁽⁵²⁾ Kawża 13-76, *Donà vs Mantero* [1976] Ġabra 1333, paragrafu 12.

⁽⁵³⁾ Avveniment Numru 485026 (kummenti tal-partijiet terzi minn Bryne footballklubb).

⁽⁵⁴⁾ Kawża N 118/00 *Subventions publiques aux clubs sportifs professionnels* (Franza).

⁽⁵⁵⁾ Avveniment Numru 484855, Kummenti minn partijiet terzi mill-Assoċjazzjoni Norveġiża tal-Futbol datati t-3 ta' Lulju 2008.

⁽⁵⁶⁾ Ara d-deċiżjoni tal-Kummissjoni fil-Kawża N 118/00, iċċitata iktar 'il fuq.

Bryne FK, min-naħa l-oħra, kien responsabbli għall-attivitajiet sportivi kollha, inkluż taħriġ u partiti, id-dmirijiet kollha uffiċjali skont ir-regolamenti sportivi tal-NFF, attivitajiet oħrajn relatati ma għbir ta' fondi għall-parti tal-klabb li mhix professjonali, u l-operat tal-istadju, minbarra r-reklamar.

Għalkemm Bryne FK kien formalment l-impjegatur ta' plejers professjonali u persunal ta' appoġġ, u parti għall-kuntratt formali dwar ftehimiet li jirrigwardaw il-bejgħ, xiri u kiri ta' plejers, l-obbligi finanzjarji kollha relatati ma' dawn⁽⁵⁷⁾ kienu jsiru minn Bryne Football ASA. Barra minn hekk, kull profitt nett wara li kienu jiġu koperti l-ispejjeż finanzjarji kollha kienu jibqgħu fi hdan Bryne Football ASA (Klawżola 4.2). Fl-aħħar nett, il-persunal amministrattiv kien jiġi rreklutat u mħallas minn Bryne Football ASA (Klawżola 5.1).

Taht il-ftehim, l-istadju bhala tali kien ir-responsabbiltà ta' Bryne FK. Bryne Football ASA għandha thallas 150 000 NOK kull sena għall-użu tal-istadju ingenerali u 10 000 NOK għal kull partita uffiċjali lil Bryne FK (4.2). Bryne Football ASA kellha thallas ukoll lil Bryne FK hlas annwali għad-dritt li tisfrutta l-isem u l-logo tal-klabb, u l-isfruttament kummerċjali tal-plejers (Klawżola 4.3). Ukoll, meta t-tim professjonali kien juża assi proprjetà ta' Bryne FK, bhall-istadju u l-isem u l-logo tal-klabb, il-klabb kien ikollu jithallas. Bryne FK jasserixxi fis-sottomissjoni tiegħu lill-Awtorità li dan kien primjum ibbażat fuq is-suq għalkemm ma pprovdix dokumentazzjoni rigward il-kalkolu ta' dan il-primjum.

Bis-saħħa tal-ftehim ta' kooperazzjoni, Bryne FK jista' jinghad li jwettaq xi attivitajiet ta' għbir ta' fondi oħrajn, b'mod partikolari il-kiri tal-istadju u tal-isem u tal-logo lil Bryne Football ASA. Dawn l-attivitajiet huma ta' tali natura li, bhala kwistjoni ta' prinċipju, jistgħu jseħhu f'suq f'kompetizzjoni ma' operaturi oħrajn, u b'hekk jaqgħu fid-definizzjoni ta' attività ekonomika. Madankollu, fil-każ prezenti, l-effett tal-hlas mill-kumpanija ta' responsabbiltà limitata għall-użu tagħha tal-istadju u tal-isem u l-logo tal-klabb kien li jassigura b'mod effettiv li l-ebda fond mahsub li jibbenefika l-attivitajiet rikreattivi tal-futbol ma jakkumula mal-attivitajiet professjonali tal-futbol. B'hekk, id-dhul li Bryne FK kiseb permezz ta' dan l-arranġament jidher li għadda lura għall-attivitajiet tal-futbol mhux professjonali li jseħhu fi hdan Bryne FK.

Kif intwera hawn fuq, l-ispejjeż kollha li jappartjenu għat-tim professjonali kienu mħallsa minn Bryne Football ASA, u li, meta t-tim professjonali juża' assi proprjetà ta' Bryne FK, il-klabb għandu jithallas. Għandu jkun innotat ukoll li l-attivitajiet kummerċjali kollha (bħal reklamar eċċ.) relatati mal-futbol

⁽⁵⁷⁾ Dawn l-obbligi jikkonċernaw b'mod partikolari l-hlas tal-prezz tax-xiri għal, u pagi u emolumenti oħrajn lil plejers, kowċis u persunal ta' appoġġ. Il-kumpanija kellha thallas ukoll it-taxxa tas-sigurtà soċjali għall-impjegati, u tkopri x-xiri u l-ispejjeż ta' manutenzjoni għat-tagħmir; taħriġ fi tmien il-gimgha; spejjeż ta' vvjaġġar marbuta ma' partiti u taħriġ fi grawnds ta' timijiet oħrajn, u l-kiri ta' grawnds u postijiet.

professjonali jsiru fi hdan Bryne Football ASA⁽⁵⁸⁾. Kif innotat aktar 'il fuq, taht il-ftehim mal-muniċipalità ta' Time, l-art tal-istadju nġhatat lil Bryne FK, mhux lil Bryne Football ASA. F'dawn iċ-ċirkostanzi, l-Awtorità hija tal-fehma li l-ftehim ta' kooperazzjoni jiżgura li kwalunkwe għajnnuna mogħtija lil Bryne FK ma kinitx tibbenefika l-attivitajiet tal-futbol professjonali jew xi attivitajiet kummerċjali relatati miegħu, minhabba li l-kontabilità ta' dawn l-attivitajiet kienu jinżammu b'mod separat minn dawk ta' Bryne FK.

Barra minn hekk, l-Awtorità tinnota li Bryne FK iddikjara li l-attivitajiet kollha tiegħu stess isiru fil-proprjetà tal-istadju, li l-attivitajiet mhux professjonali tiegħu jirrapprezentaw madwar 89 fil-mija. Dan ifisser li l-proprjetà tintuża l-aktar għall-attivitajiet ewlenin tal-klabb stess, jiġifieri l-offerta ta' attivitajiet rikreattivi tal-futbol fil-komunità lokali, l-aktar lil tfa' u zġha-zgħ.

F'dawn iċ-ċirkostanzi, l-Awtorità tikkonkludi li l-attivitajiet ta' Bryne FK li jipproduċu dhul b'mod ċar għandhom karatturi strumentali u anċillari għall-oġġettiv ewleni tal-klabb⁽⁵⁹⁾.

Barra minn hekk, fir-rigward tal-kiri tal-istadju tal-futbol b'mod partikolari, l-Awtorità tinnota li l-istadju f'dan il-każ għandu kapaċità limitata ta' postijiet bilqiegħda u ma jinsabx f'centru urban kbir. Għaldaqstant, jista' jidher li l-użu tal-istadju ma jkunx ta' interess sinjifikanti għal partijiet oħrajn hlief Bryne Football ASA, jipproduċi dhul modest u, b'konsegwenza ta' dan, huwa ta' interess limitat għal investituri privati li jkunu qegħdin ifittxu qligħ. Punt importanti, minhabba li r-rapport ta' OPAK isemmi b'mod speċifiku li m'hemmx żoni kummerċjali marbuta magħha, huwa li ż-żona tal-istadju ma tikkompetix ma' stabbilimenti tax-xiri jew binjiet ta' uffiċini fir-reġjun.

Fir-rebbiegħa tal-2004, jiġifieri madwar sitt xhur wara t-tranzazzjoni, Bryne Football ASA temmet l-attivitajiet tagħha u l-attivitajiet professjonali ġew ittrasferiti lil Bryne FK. Barra minn hekk, Bryne FK ikkonferma li l-klabb ma jzommx kontabilità separata għat-tipi differenti ta' attivitajiet li jseħhu fil-klabb.

⁽⁵⁸⁾ Il-ftehim ta' kooperazzjoni applikabbli dak iż-żmien kien jimplika li Bryne Football ASA, mhux Bryne FK, kienet responsabbli għal ftehimiet ta' sponsorjar, il-bejgħ tad-drittijiet tat-televiżjoni u tal-midja, il-provvediment ta' spazju għar-reklamar fl-istadium, il-bejgħ u l-liċenzjar ta' parafernalja għall-partitarji u l-isfruttament kummerċjali tal-plejers u tal-isem u tal-logo tal-klabb. Barra minn hekk, Bryne Football ASA kienet responsabbli għall-bejgħ tal-biljetti għal-loġġbiet tal-klabb li jintlagħbu fil-grawnd tiegħu. F'dak li jirrigwarda l-bejgħ u x-xiri ta' plejers professjonali, għalkemm dawn kienu elenkati fost il-kompiti u r-responsabbiltajiet ta' Bryne FK fil-klawsola 2.5 tal-ftehim, kienet Bryne Football ASA li kienet responsabbli għall-hlas tal-prezz tax-xiri u l-pagi tal-plejers. B'hekk jidher li l-attivitajiet ikkwalifikati mill-Awtorità bhala ta' natura ekonomika u li jistgħu jaffettwaw in-negozju u l-kompetizzjoni fi hdan iż-żEE, seħhu fi hdan Bryne Football ASA fil-mument tat-tranzazzjoni.

⁽⁵⁹⁾ Każ tal-Kummissjoni N 558/05 – Appoġġ lil Stabbilimenti ta' Attività Professjonali (Polonja). Barra minn hekk, każ N 234/07 Promozzjoni ta' R & Z & I (Spanja), paragrafu 38, jindika wkoll li organizzazzjonijiet ta' riċerka li primarjament ma jwettqux attivitajiet ekonomiċi jistgħu, madankollu, iwettqu riċerka fisem intrapriži bi hlas mingħajr ma b'hekk jiġu kkwalifikati bhala intrapriži għall-finijiet tar-regolamenti dwar l-għajnnuna mill-Istat.

Minhabba li t-trasferiment ta' proprjetà hija tranżazzjoni ta' darba, l-istima li saret hawn fuq hija bbażata fuq l-istruttura tal-klabb fil-mument tat-tranżazzjoni. Evalwazzjoni tal-effetti possibbli għall-attivitajiet ekonomiċi tal-klabb wara l-amalgamazzjoni tkun iġġustifikata jekk ikun hemm sinjal li l-mod kif graw l-avvenimenti kien fil-fatt immirat sabiex jiġu evitati r-regolamenti dwar l-ghajnuna mill-Istat billi l-vantaġġ ekonomiku jingħadda minn entità mhux ekonomika. Fil-każ preżenti, l-Awtorità m'għandha l-ebda indikazzjoni li l-amalgamazzjoni sussegwenti ta' Bryne FK u Bryne Football ASA kienet ipplanata fil-mument tat-trasferiment, marbuta b'xi mod mal-akkwist tal-klabb tal-art jew imfassla b'xi mod biex jiġu evitati r-regolament taż-ŻEE dwar l-ghajnuna mill-Istat.

L-Awtorità għaldaqstant tikkonkludi li l-appoġġ mogħti lil Bryne FK permezz tat-trasferiment tal-art li fuqha kien mibni l-istadju ma kienx jibbenefika l-attivitajiet ekonomiċi tal-klabb.

4.3. KONKLUŻJONI DWAR IT-TRASFERIMENT TAT-TITOLI NUMRI 2/70 U 2/32 LIL BRYNE FK

Fid-dawl ta' dan li ntqal hawn fuq, l-Awtorità tikkonkludi li t-trasferiment tal-proprjetà lil Bryne KF ma kienx jinvolvi ghajnuna mill-Istat fis-sens tal-Artikolu 61(1) ŻEE.

5. KONKLUŻJONI

Fuq il-bażi tal-evalwazzjoni mogħtija hawn fuq, l-Awtorità tikkonkludi li ma jistax jiġi pprovat li xi wahda mit-tliet tranżazzjonijiet li huma s-suġġett ta' din id-Deciżjoni kienet tinvolvi ghajnuna mill-Istat fis-sens tal-Artikolu 61(1) tal-Ftehim dwar iż-ŻEE.

ADOTTAT DIN ID-DECIŻJONI:

Artikolu 1

L-Awtorità ta' Sorveljanza tal-EFTA tikkunsidra li l-bejgħ mill-Municipalità ta' Time tal-proprjetajiet irreġistrati taht it-titoli numri 1/151, 1/301, 1/630 (lil Grunnsteinen); titolu numru 4/165 (lil Bryne Industripark AS) u t-titoli numri 2/72 u 2/32 lil Bryne FK ma kienx jikkostitwixxi ghajnuna mill-Istat fis-sens tal-Artikolu 61 tal-Ftehim dwar iż-ŻEE.

Artikolu 2

Din id-Deciżjoni hija indirizzata lir-Renju tan-Norveġja.

Artikolu 3

Il-verżjoni bl-Ingliż biss hija awtentika.

Magħmul fi Brussell, it-23 ta' Lulju 2009.

Għall-Awtorità ta' Sorveljanza tal-EFTA

Per SANDERUD
President

Kristján A. STEFÁNSSON
Membru tal-Kulleġġ

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Il-Ġurnal Uffiċjali tal-UE, serje L + C, edizzjoni stampata biss	22 lingwa uffiċjali tal-UE	Eur 1 100 fis-sena
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L-abbonament f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*, li joħroġ fil-lingwi uffiċjali tal-Unjoni Ewropea, hu disponibbli f'22 verżjoni lingwistika. Inklużi fih hemm is-serje L (Leġiżlazzjoni) u C (Informazzjoni u Avviżi).

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B'konformità mar-Regolament tal-Kunsill (KE) Nru 920/2005, ippubblikat fil-Ġurnal Uffiċjali L 156 tat-18 ta' Ġunju 2005, li jstipula li l-istituzzjonijiet tal-Unjoni Ewropea mhumiex temporanjament obbligati li jiktbu l-atti kollha bl-Irlandiż u li jippubblikawhom b'din il-lingwa, il-Ġurnali Uffiċjali ppubblikati bl-Irlandiż jinbiegħu apparti.

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Bejgħ u Abbonamenti

Abbonamenti fil-perjodiċi diversi bi hlas, bħalma huwa l-abbonament f'*Il-Ġurnal Uffiċjali tal-Unjoni Ewropea*, huma disponibbli mill-uffiċini tal-bejgħ tagħna. Il-lista tal-uffiċini tal-bejgħ hi disponibbli fuq l-internet fl-indirizz li ġej:

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