Railway charges – Determination by the infrastructure manager, in the absence of a favourable opinion from the Autorité de régulation des activités ferroviaires et routières (ARAFER), of the applicable tariff on the basis of the last tariff that received a favourable opinion (Article L.2133-5 of the Transport Code) – No disregard for the manager’s management autonomy (Article 4 of Directive 2012/34/EU) and no disregard for the independence of the supervisory body (Article 55 of the aforementioned Directive).

Section V of Article L.2133-5 of the Transport Code, resulting from Order No 2019-183 of 11 March 2019, provides that: ‘V.- In the absence of a favourable opinion from the Autorité de régulation des activités ferroviaires et routières [ARAFER] before a date, specified by regulation, prior to the entry into force of the service timetable concerned, the infrastructure manager shall determine and publish the applicable tariffs on the basis of the last tariff which received a favourable opinion from the authority. The change in the amount of the charges in relation to the last approved pricing may not exceed the expected change in the consumer price index in the year following the service timetable for that pricing. The pricing determined and published in these conditions shall apply for the entire duration of the service timetable.’

These provisions do not infringe either the management autonomy of the infrastructure manager, which must be reconciled with the existence of a pricing framework, or the independence of the regulatory body in relation to other State authorities, in the absence of substitution of these authorities for the regulatory body in setting the amount of the charges in the situation that these provisions are intended to regulate within the meaning of Articles 4(2) and 29, on the one hand, and 55(1) and 56(6), on the other, of Directive 2012/34/EU of 21 November 2012 establishing a single European railway area.