

Fourth Railway Package: member states can choose between holding and vertical separation

[by Elena Ilie]

The main objective of the Fourth Railway Package consists in improving the quality and efficiency of railway transport services by removing the still-existing barriers, thus encouraging the performance of the railway sector and consequently, competitiveness and economic growth. These barriers can be grouped into four categories, technical, administrative, institutional and legislative barriers.

The four above-mentioned obstacles are approached through the initiatives included in the legislative proposals of the Fourth Railway Package. Thus, the legislative proposals refer to the actual method of institutional organisation of the railway market, to the approach of legislative barriers regarding the access to the domestic passenger transport market, as well as to the initiatives that refer to the role of the European Railway Agency (ERA), interoperability and safety.

The current situation proves to be difficult for the railway sector and for the competitiveness of the railways as transport mode. Authorisation and certification procedures are expensive and time-consuming. The entire process of authorisation of vehicles in Europe can last more than two years and can thus block assets worth EUR 1.2 Billion which wait to be authorised and cannot be put in service. Authorisation and certification procedures have to be simplified as fast as possible and the European Railway Agency (ERA) has to gradually become a one-stop shop for authorisation and certification. In order to meet this objective, an evolution plan has to exist for the increase

of ERA's competences and clear responsibilities for a single certificate for safety and authorisation of vehicles.

The three basic pillars of the Fourth Railway Package clearly stipulate the establishment of consequent authorisation procedures for interoperability and railway safety (known as the Technical Pillar), the liberalisation of the domestic passenger market and the establishment of better structures and authorities for infrastructure managers.

The lack of standardisation, the existence of a highly specialized rolling stock fleet, the resulted investment costs, as well as the costs of entering and leaving the railway transport market, are major problems for the single transport market. Authorisation procedures are long and difficult and safety certification fees are expensive.

On 17 December, the Transport Committee of the European Parliament approved the package of legislative measures aimed to increase the attractiveness of railway transport by stimulating competitiveness and setting up joint plans for the certification of railway products. However, the European

The length of lines in use in the EU in 2010

 212,345 km



The length of high speed lines in the EU in 2011

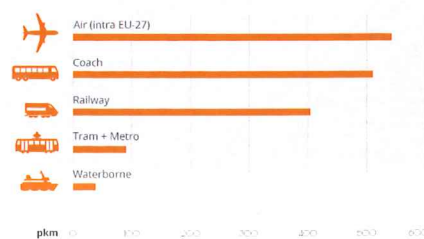
 6,830 km

railway network remains fragmented along national lines and largely dominated by integrated rail companies that operate both the network and the trains running on it. This can make it difficult for new operators to enter the market.

As discussed and debated on during the past year – Railway Pro published information about these debates – the six legislative

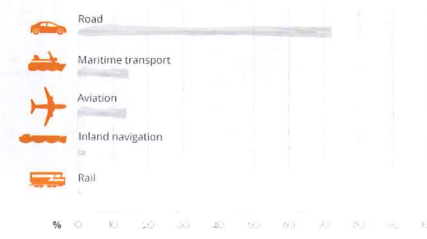
Europeans love their railways...

Number of passengers in EU (2010)
in billion passengers kilometers



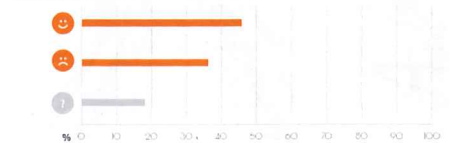
Why should we love trains?

> Trains are cleaner
EU's greenhouse gas emissions from transport



How satisfied are Europeans with rail travel in their country?

Data from 2012



Industry in numbers

Annual turnover

€73 billion

Number of employees

800,000



Source: Club Feroviar

measures which compose the Fourth Railway Package aim to unravel once and for all the tangled threads of the European railway system, focusing mainly on a greater separation between the railway management activity and the railway transport activity. Moreover, all operators will have access to the national railway infrastructure. These proposals are currently debated by the European Parliament. Both the Parliament and the European Union Member States will have to approve these new rules so that they could become effective. The vote of the TRAN Committee assigns the negotiation team of the European Parliament to initiate negotiations with the European Council and member states.

The results of the TRAN Committee's vote are good for the European railway sector because the vote gives green light to improving national railway services by opening public service obligations to competition. Operators are thus granted fair access to railway infrastructure and safety certificates will be harmonised so as to improve interoperability and buy new and performing rolling stock.

The new approved regulations guarantee that these public service obligations provide the best quality-price report by reducing their duration and by guaranteeing that they would not be assigned directly and without justification. The rules thus approved at the middle of December will facilitate fair access to the market for new entrants. Also, the much-expected vote simplifies new rolling stock safety certification procedures and gradually transfers certification responsibilities to the European Railway Agency. A transition period of five years was established for the transfer of certification responsibilities to the Agency.

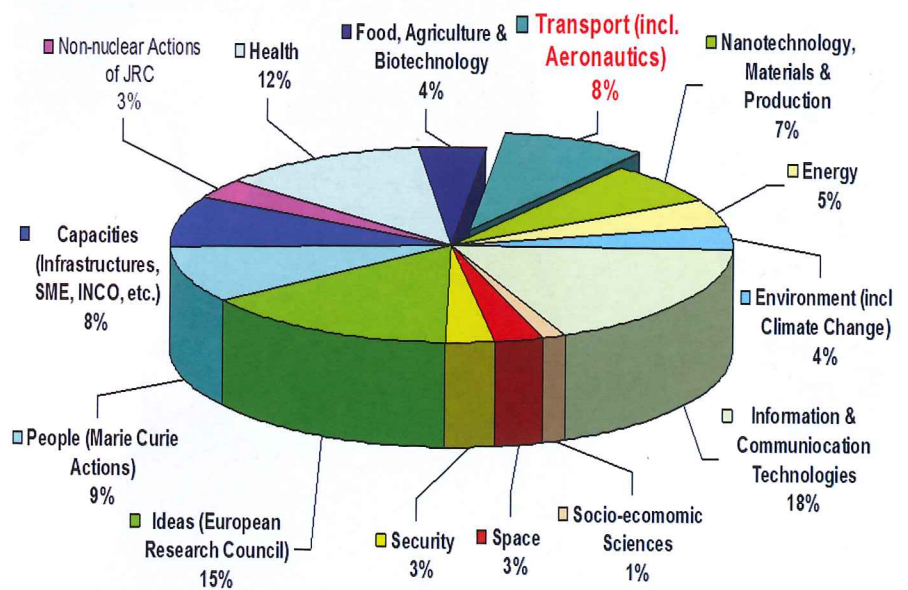
Clear conditions for the direct attribution of public service contracts

Member states may continue to award public service contracts for rail passenger transport directly on certain conditions, but the awarding authority would be required to justify how direct award can meet efficiency criteria such as punctuality of services, cost-efficiency, frequency of train operations, and customer satisfaction.

If these requirements are not met, the regulatory body could oblige the competent authority to award the contract through competitive tendering. A deadline of 2022 would be set to allow competent authorities to phase in competi-

tive tendering. Also, to ensure that new entrants and smaller operators are able to fulfil public service contracts, a minimum number of public service contracts to be awarded in a member state should be set, based on national market volume of rail passenger transport under public service contracts.

Rail service provision would be subject to open access, but for routes covered by public service contracts, access may be limited, if a regulatory body decides, based on an economic analysis, that this would adversely affect the viability of the public service. In cases where member states opt for competitive tendering for public service contracts, member states could block open access for operators.



Source: ec.europa.eu

Consolidated tasks for ERA and cutting red tape

To cut red tape and costs related to vehicle authorizations, after a four-year transition period the European Railway Agency would be responsible for authorizing vehicles to be placed on the market. A clear distribution of tasks between the agency and national authorities during the transition period would be established. The Agency could delegate specific tasks and responsibilities to national safety authorities on the basis of contractual agreements, but would have to take the final decision in all authorization procedures.

To reduce the safety certification burden for rail companies, the European Railway Agency would be responsible for issuing a single safety certificate to all railway op-

erators with the exception for “isolated networks” (Baltic States) after a four-year transition period. During this period it would gradually take over from national safety authorities the responsibility for issuing safety certificates. A division of responsibilities and tasks for European Railway Agency and national safety authorities would also be put in place.

Financial transparency for railway infrastructure access

Member states may choose between an integrated structure with a single holding company for the rail operator and infrastructure manager or a separation of infrastructure managers and operators, in order to avoid conflicts of interest and ensure fair access to infrastructure for all operators.

The draft text sets out conditions to be met, including strict requirements for financial transparency and separation in the case of integrated structures. If these conditions are not met, the Commission may start infringement proceedings and other member states may restrict access to their markets for the railway operator considered to be in breach of the rules.

The Community of European Railway and Infrastructure Companies (CER), one of the strongest voices that militate for fair railway transport, believes that some aspects of the vote held at the European Parliament Transport and Tourism (TRAN) Committee clearly represent improvements to the European Commission's proposal, while others put in serious danger the efficiency of the railway business in Europe.

CER is especially disappointed by the vote results with respect to the new separation requirements.

“There is strong evidence that no model guarantees market opening per se. CER will therefore continue to plead for more flexible arrangements in the choice of governance models aligned with the powers of regulatory bodies. Similarly, the adopted provisions for network of infrastructure managers and integrated ticketing are too rigid and therefore we look forward to a further constructive dialogue with all relevant parties to find the right compromise”, believes the railway organisation.

“I do wish to express my appreciation to the MEPs for their work. However I have to state that this vote is a mixed bag for Europe's railways: while a good job has been done on a number of issues, I consider that the proposal of the European Commission on the issue of governance has not been sufficiently amended.

Governance models have to respect various conditions across the EU Member States: the right of choice is a precondition for a necessary search for greater economic efficiency and better use of public money for Europe's railway networks. These considerations were sadly mostly absent from the recent discussions”, CER Executive Director Libor Lochman emphasised.

At the same time the vote of the TRAN Committee has also been appreciated by the European Rail Industry Association (UNIFE), an association which, as the name suggests it, has many times pleaded for the development of the European railway industry and for its competitiveness in report to that of foreign markets.

The Technical Pillar is of great importance for the entire rail sector as it will reform the way authorisation is done in Europe. It will lead to quicker, more efficient and less costly authorisation procedures, providing railway operators and European citizens with new vehicles in a quicker and more predictable manner.



Photo: www.publicdomainpictures.net - Katrina Joyner



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Moving towards an internal market for rail equipment, the Technical Pillar represents a cornerstone of the Single European Railway Area. It will help create a strong home market which the European rail industry needs to maintain its world leadership.

UNIFE hopes that the European institutions start trialogue discussions and adopt the Technical Pillar during this mandate of the Parliament so the European rail sector can benefit from the Technical Pillar as soon as possible. "The rail sector urgently needs

the Technical Pillar. It will enhance the competitiveness of rail as a transport mode and that of the European rail industry vis-à-vis its global competitors", stated Philippe Citroën, Director General of UNIFE.

4-ый Железнодорожный Пакет: Государства-члены смогут выбрать холдинговую структуру или вертикальное разделение

Соответственно решению в связи с 14-ым Железнодорожным Пакетом, государства-члены смогут выбрать интегрированную структуру, с единой компанией в виде холдинга – соответствующей железнодорожному оператору и оператору железнодорожной инфраструктуры, или вертикальное разделение названных двух юридических лиц, для избегания столкновения интересов и для предоставления равноправного доступа к железнодорожной инфраструктуре всем операторам. ■