



TRANSPORT REGULATORY AUTHORITIES IN EUROPE

The transport regulatory authorities in the countries of the European Union (or those which have a “euro-compatible” transport policy) were mostly founded with the European rail reform launched by directive 91/440¹ which established competition within this mode of transport. The implementation of this directive profoundly transformed the entire European rail system even though, more than thirty years after it took effect (1991), its implementation has not been fully completed. The Green Deal opens a new phase in European policy, with new objectives and new instruments. Nevertheless, regulation remains a necessary condition for competition in rail transport.

REGULATION, A NECESSARY CONDITION FOR COMPETITION

Reminder: Breakdown of competences in Europe

Transport and the trans-European transport network are among the areas of competence shared between the European Union and the member states according to the Treaty on the Functioning of the European Union² (TFEU, referred to as the Treaty of Lisbon, of 2007). The regulation of transport in the member states comes within this breakdown, while applying the principle of subsidiarity both for the sharing of responsibilities between EU and national bodies and also within countries, between the Government and the regional authorities.

With regard to transport, the European Union has the competence, exclusive or shared, for international treaties and agreements, rules of access to interna-

tional markets, rules of competition, control of state aid, the rights of passengers, computerized reservation systems, etc. and in the event of a divergence, European law takes precedence over national laws.

The national authorities are competent for infrastructure programs, the granting of licenses to carriers, the remuneration of transport employees, fuel taxes, infrastructure charges, environmental regulations, the application of traffic safety, etc. in observance of EU rules.

The European rail reform launched in 1991 mobilizes and connects these two levels of competence, EU and national, in particular for the regulation of the system throughout the change process.

Reforming competition

The declared objective of the European reform was to **develop rail to better meet the needs of individu-**

1 - [Council Directive 91/440/EEC](#) of 29 July 1991 on the development of the Community's railways.

2 - [Treaty of Lisbon](#) amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon, 13 December 2007.

als and companies. This involved taking market shares from the other modes, particularly road transport (with the additional effect of reducing pollution and insecurity).

This goal was to be reached by harnessing market mechanisms and not through a breakdown of traffic between modes by administrative means. To increase its competitiveness, rail was supposed to decrease its costs and its prices for users (referred to as consumers, in a market rationale), innovate and improve its service quality, and increase its offer of services to meet increasing demand. For its expected effects of emulation between rail companies, the introduction of competition into a system which was monopolistic at the time in many member countries was the main lever for action. It was an intra-modal competition, within the world of rail, because the business competition with the other modes was already very active. At the time, competition was, along with concern for the environment, one of the two pillars of the common transport policy.

Separation of infrastructure and services

With this outlook, a key element – a prerequisite – of the reform was the dissociation of the management of infrastructure from the management of rail services (unbundling). This dissociation is specific to Europe, as the other rail networks of the entire world are vertically integrated. It allows for the opening of access to the network to new operators by eliminating the risks of conflicts of interest between the infrastructure manager and the historical operator.

While the principles for this were set in 1991, the opening of the rail systems to competition has been organized in stages, according to a very progressive calendar, and has not yet been completed. For example, the opening to competition of regional public services (the last step of the opening) has been possible since 2018 (according to the fourth railway package) and does not become mandatory until 2024, as the former contractual provisions progressively come to an end.

Competition in the rail field can take on two different forms, according to the markets. For long-distance transport of passengers and for freight, the general rule is the opening of the network (open access). Several carriers can simultaneously offer services on the same lines (differentiating by the types of service and the prices) and are thus in competition *on* the market,

with no intervention from a transport organizing authority. This is not true for rail services managed according to the principles of public service (particularly for regional transports and under the responsibility of an organizing authority). In this case, one single company is chosen and granted, with exclusivity for a given period, the providing of a service defined by a set of specifications, following a tendering process.

It is thus competition *for* the market. In both cases, the separation of the infrastructure from the service is necessary to allow for the intervention of an operator other than the historical company that was formerly vertically integrated.

However, the unity of the infrastructure, the main rail network, is not being called into question. In accordance with its natural monopolistic nature³, respected throughout the world with the conspicuous exception of North America where two networks overlap, the rail network is assigned to a single infrastructure manager which has a public service mission: guaranteeing safety of rail traffic, and organizing rail traffic. This involves, on the one hand, separating infrastructure and rail operation within the vertically integrated historical national operators. This separation took on diverse forms, total separation or maintaining within a common holding company but with management and financial separation rules between subsidiaries (“Chinese walls” in the European vocabulary). On the other hand, the idea is to allow for the entry of new operators onto the market. They may be really new companies or operators which are already active on other national markets. The latter are often subsidiaries of the historical operators.

Regulation of a system in transformation

The Recast Directive of 2012⁴ aims, in order to complete the reform started in 1991 and to move towards harmonization of technical rules and political and economic governance on the scale of the EU, to establish a single European rail space. It takes into account the fact that simultaneously implementing the opening of access and competition between operators is a major change in a system characterized for more than a century by vertical integration and by monopolies within national borders. To accompany this transformation, **the directive requires that the states establish transport regulatory authorities.** They are not under the auspices of supervisory authorities for rail (Ministry of Transports or equivalent), from which they must be independent, nor of the judi-

3 - “In economic theory, a natural monopoly situation exists when the production of a given item by several companies is more costly than the production of this item by one single company. A necessary condition for this situation is the existence of economies of scale. Such a situation may be present in network industries in particular.” Source: [Wikipedia](https://en.wikipedia.org/wiki/Natural_monopoly)

4 - [Directive 2012/34/EU](https://eur-lex.europa.eu/eli/dir/2012/34/eu) of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast)

cial administration, which is not well-equipped to deal with this very specific field. Their main function is to monitor the functioning of these new provisions, despite the national political or professional reticence and with reference to European law, according to the principles of free and undistorted competition.

The term regulation must be understood in its meaning of maintaining a dynamic system in equilibrium (“the rules or systems that are used by a person or organization to control an activity or process, or the action of controlling the activity or process”⁵). Regulation includes, among its instruments, the application of regulations but is not limited to it and, while respecting the texts, the transport regulatory authorities have a wide range of initiatives. As a reminder, the two French terms, *régulation* and *réglementation*, have the same translation in English (regulation).

The critical text analysis of the French regulator

In a 2015 opinion, the French regulator commented on the 2012 Recast Directive as follows: “The directive reinforces the missions and the independence of the national control organization. It must be independent in organizational, functional, hierarchical and decision-making terms from all public or private entities. It is also assigned a general mission of observation of the market with a right of general access to information. It has broad powers for regulation of access and price setting for the main infrastructure and service facilities. The directive also specifies that the control organization can carry out audits to verify the respecting of the rules of accounting separation. Lastly, the control organization is the guarantor of the protection of the public service because it is in charge of verifying whether a new commercial service including domestic routes would compromise the economic equilibrium of an existing public service contract, which would justify a limitation of the right of access to the network. Lastly, cooperation between the national regulators is also reinforced to contribute to the creation of the single market and to guarantee more efficient handling of transnational issues. On the European level, they have been coordinating since 2011 within the group of independent regulators (IRG-Rail⁶).”⁷

Diversity of the competences of regulators

NB: To ensure that this comparison remains relatively coherent and considering that the rail reform launched in 1991 was often the initial reason for the establishment of transport regulatory authorities in Europe, we will examine in particular their competences in terms of rail, mentioning only briefly their competences in other modes of transport, or in other network industries.

On this common base, regulators in Europe had very diverse trajectories, both in terms of fields of intervention (rail, road, etc.) and for the diversity of their interventions in each field (regulation of competition, control of productivity and service quality, etc.). Some immediately received very wide competences, covering all modes of transport (the case in Italy) or even a whole set of technical networks (the case in Germany). Elsewhere, the expansion came in stages (as in France). In Poland, rail is the only mode which has an independent regulator. For rail, the role of the regulator can be limited to the application of the rules of competition, or it can be broadened to the measurement of productivity, service quality or safety performances, to the setting of rules for tender offers for concession services, or even the attribution of concessions themselves, etc. The regulatory authorities are both specialized jurisdictions and surveillance authorities.

In their diversity, the regulators are in touch with each other for exchanges regarding their thinking and experiences in rail and to make sure that the notion of regulation is implemented in a coherent manner on the scale of Europe. Two associations provide the venue for these exchanges: the network led by the European Commission (European Network of Rail Regulatory Bodies, ENRRB⁸) which brings together 25 regulators from EU member states, and the network which refers to itself as independent (Independent Regulators’ Group – Rail: IRG-Rail⁹) which includes 31 regulators, from EU and non-EU countries.

The multimodal character of certain agencies deserves to be underscored, because it indicates a situation which could become widespread in Europe. Grouping competences for several modes reflects not just a desire for administrative cost reductions and the sharing of know-how, but also the fact that the transport system as such is multimodal. Competition occurs within modes (particularly rail, because of the European reform) but also between modes and

5 - Source: [Cambridge Dictionary](#)

6 - <https://irg-rail.eu/>

7 - Transport Regulatory Authority, [Ruling No. 2015-023 of July 1, 2015](#) on the draft orders and decrees transposing directive 2012/34/EU

8 - https://transport.ec.europa.eu/transport-modes/rail/market/regulatory-bodies/european-network-rail-regulatory-bodies-enrrb_en

9 - <https://www.irg-rail.eu>



thus calls for a common vision, all the more so because some operators are involved in several modes. In France, the SNCF manages regional bus services and at one point was focusing on the market for intercity buses. With Keolis, it has a subsidiary which is active throughout the world for all types of urban, regional and intercity transport of passengers and, with Geodis, an international multimodal logistics group. This is one of the reasons why many regulatory authorities have a market observation department.

The meaning of the reform: public policy procedures and objectives

One reproach which is sometimes made regarding independent authorities is that they take the place of democratically-elected bodies and are not under their control. This reproach does not seem to be well-founded because the regulation authorities have no legislative power. They are on the contrary bound to act strictly within the framework of European and national law and for its implementation. If there is a power that they can be connected with, it is judicial power. Moreover, when one of the parties to a dispute settled by a regulation authority is not satisfied with the decision, it can appeal it with a “normal” court jurisdiction.

In fact, central governments, deprived of a role of control that they traditionally exercise, can show a certain reticence, or even hostility, towards independent authorities. In some countries, the regulator is still administratively linked to the Ministry of Transport...

In any event, it is a substantial evolution of the role of the states because of the opening of the transport markets to competition.

Over the years, the regulation authorities have acquired both know-how (to elaborate their methods of observation, assessment, and decision-making) and a broadly accepted legitimacy (to exercise their autonomy with respect to the supervisory authorities and companies of the sector). They are now among the major actors in rail systems and also, for some countries, for the other modes of transport.

We can lastly consider the meaning of the reform undertaken thirty years ago with respect to the new concerns that have appeared since then. The establishment of regulation authorities is not an end in itself. It was only an instrument necessary for the establishment of an internal competition system in a system that was until then administered and monopolistic in many member states of the EU. These new authorities adopted a conception of the economy putting “free and undistorted” competition at the core of the development of transports, making a place for public service only when market failures are observed.

However, this **procedural conception of public policy** (setting the rules and letting them govern events with no other constraints) is not that of the European Green Deal of 2019 which on the contrary sets a strategic objective (implementing sustainable development engaging all of the policies of the Union in the fight against climate disturbance) while allowing for the

definition of instruments to achieve this. It is an **eminently substantial conception of policy**. In this dichotomy, we can consider that in terms of transport, the regulation of competition *on* the market with open access involves a procedural approach. However, the regulation of competition *for* the market (in the form of temporary operating contracts which can be of various types according to the countries – concessions, delegations, partnerships – is part of the substantial approach, because the objectives and the options are set by political institutions (the organizing authorities), with the operators being only the actors for their implementation.

Through a technical theme, transport regulatory authorities, the overall dynamic of European construction can be put into perspective.

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TRANSPORT POLICIES AND STRATEGIES IN EUROPE

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BELGIUM

In Belgium, a very decentralized country, the rail system and Zaventem (Brussels-National) Airport are the responsibility of the Central Government. However, the transport regulation authority in Belgium is a modest institution, with a weak presence in political debate.

The Rail Transport Regulation Service was established in 2004 as the body for control of rail activities. A royal decree of February 1, 2006 added the economic regulation of Brussels-National Airport to its competences. It is an independent authority, and the competence of the ministry of reference is limited to disciplinary procedures against the management of the Regulation Service.

The Regulation Service for Rail Transport and the operation of Brussels-National Airport is responsible for market surveillance, protection of the interests of users and the general interest. It ensures that access to rail infrastructure and to Brussels-National Airport is provided in a non-discriminatory manner. Lastly, it provides consulting services to the public authorities.

More precisely, with regard to rail, the regulation service issues reasoned opinions, makes proposals and carries out research and studies concerning the rail markets. It provides the minister with the information necessary for the establishment of the rules concerning rail licenses, prices for use of the infrastructure and the distribution of rail infrastructure capacities. It issues reasoned opinions on the content of the transport agreement that Infrabel (the rail infrastructure manager) and the SNCB (the historical company) must conclude.

The regulator is also competent for being aware of disputes between actors of the rail system. It rules by substantiated decisions on all written complaints from a rail company, a candidate or a manager of infrastructure within the framework of possible discrimination, inequitable treatment or any prejudice resulting from an infraction.

Lastly, the Rail Code also gives the regulator various specific missions such as the granting of the number of minutes of lateness authorized within the framework of the system for performance improvement, the calculation of the fee in the event of saturated infrastructure and lastly the setting of reasonable time frames within which the operator of a service facility must respond to requests from rail companies. Along with the rail competences there is also the regulation of Brussels-National Airport.

The Service for the Regulation of Rail Transport and the operation of Brussels-National Airport has only a modest staff (about twelve people). It is rarely mentioned in political debate.

FRANCE

The Transport Regulation Authority (*Autorité de régulation des transports*, ART) was initially limited to rail transport, but its field of intervention was then broadened to a share of road transport and air transport (for the determination of airport charges) and to public transport in the Paris Region (*Île-de-France*). This institution changed its name as its competences were extended:

- Rail Activity Regulation Authority (*Autorité de régulation des activités ferroviaires et routières*, Araf), in 2009, to carry out the opening of the rail market,
- Regulation Authority for Rail and Road Activities (*Autorité de régulation des activités ferroviaires*, Araf), in 2015, with the extension of its field of activity to the regulation of the commercial markets for intercity buses (freely organized services), highways (toll determination system, competition in the procurement of works), and to the Channel Tunnel (in a binational body with the United Kingdom),
- ART, in 2019, with the extension to airports (user fees), to the rail infrastructure of the *Régie autonome des transports parisiens* (RATP, the public transport company for the Paris metropolitan area), the opening of data on transports and ticket sales.

During this period, the European rail reform was implemented in stages within the French framework. The historical rail operator (*Société nationale des chemins de fer*, SNCF) underwent several restructurings which led to the constitution of an autonomous integrated infrastructure manager – *SNCF Réseau*, which succeeded *Réseau ferré de France*, RFF – and nevertheless part of the SNCF group which includes infrastructure, stations and various transport activities (rail transport and other modes for passengers and merchandise, on an international scale). Also, by stages, the various markets were opened to competition or are in the process of being opened: competition on the market for freight and the main passenger lines, competition for the market for regional trains and inter-regional rail services.

The ART is a member of ENRRB and IRG-Rail.

If we consider rail alone, the authority is in charge of regulating the access of the various actors to tracks and service facilities, monitoring the opening of the markets to competition and the quality of the services offered to users. It has investigation and sanction

powers and settles any disagreements between actors. Its observatory disseminates information about the situation of the various markets that it monitors. In particular, the amount of the fees for access to the rail network is proposed by *SNCF Réseau* and approved by the government after assent of the ART (which thus has a right of veto, which can open a phase of rewriting of the network reference document until its agreement). The ART, in charge of monitoring the financial trajectory of *SNCF Réseau*, also wants the rail companies to have visibility regarding the coming changes in fees. It is encouraging an overhaul of the calculation of fees in the spirit of the European rules according to which the operators must pay as a function of the real wear to the network, and particularly as a function of the weight of the train. In addition to its assent (binding) on certain key decisions (approval of the network reference document, station reference document, appointment of the directors to monitor the separation of the infrastructure and the rail operation), the ART is called on to issue a reasoned opinion (advisory) on the legislative and regulatory texts in preparation, on the national or European levels.

It is also responsible for settling disputes between actors of the rail system (rail companies, mobility organizing authorities, infrastructure manager), with the possibility of appeal to judicial courts (civil or administrative) if one of the parties is not satisfied with the decision. Lastly, the ART can take the initiative of applying sanctions in the event of a breach of the rules of access or use of the rail network or service facilities.

The ART is a light structure with a staff of some 80 people, about half of whom deal with rail issues.

GERMANY

The regulation system in Germany stems from the implementation in 1998 of the Federal Agency for Networks (*Bundennetzagentur*, BNetzA) following the opening to competition by the European Union of postal services and telecommunications, which were formerly managed as government services under the supervision of a ministry, but are now real companies. The structure implemented includes all of the network activities: telecommunications, postal services, gas distribution, electricity distribution and rail. The competent ministry (*Bundesministerium für Digitales und Verkehr*) brings together digital services and transport but the BNetzA agency is in the organizational chart of the Ministry of the Economy. Its head-

quarters are in Bonn and it has 44 sites distributed throughout the country. Its main mission is ensuring fair and non-discriminatory competition for access to these networks. The two parliamentary assemblies (the *Bundestag* and the *Bundesrat*) sit on its advisory board.

There is also an agency for highways and main roads, which is in charge in particular of setting the tolls for trucks (*LKW Maut*) based on recommendations from a group of experts and on behalf of the Ministry of Transport.

The missions of the BNetzA agency were more recently expanded to include the registration of electric charging stations in the public domain to monitor their safety and their interoperability, the attribution of radio frequencies for Intelligent Transport Systems (ITS), and lastly regulation of the distribution of hydrogen with regard to the other gas networks (methane, etc.).

In terms of rail, the agency is competent for the heavy national network. It does not cover tramways, metros, magnetic levitation trains, and specific local trains (mountain railroads, etc.). It monitors non-discriminatory access to the network for all of the rail companies (without favoring the historical operator), as well as equal conditions for use of the service facilities. It must approve (through an assent document) the structure and the level of the fee proposed by *DB Netz* and encourage the improvement of the pricing of itineraries (taking into account the various qualities of slots and differences of use of the infrastructure according to the types of trains)¹⁰. Administratively, the agency is linked to the ministry, but since 2021 there have been plans to give it more independence.

For the public, the agency's responsibility is more visible for matters of telecommunications while rail is referred to less frequently.

GREECE

We cannot discuss issues of transport in Greece without mentioning the recent rail accident which occurred on February 28, 2023 on the line between Athens and Thessalonica, in which 57 people died. The impact on public opinion was such that the legislative elections of Spring 2023 were postponed for several weeks. The inquiries into the causes of the accident have not been completed, but insufficient investments in modernization and various forms of managerial negligence have already been mentioned, along with individual human error. It seems likely that this will lead to changes in rail policies.

10 - Source: [Allianz pro Schiene](#)

The country has never had a single regulatory authority for all forms of transport.

The first authority implemented was for the regulation of domestic maritime transport and cabotage in the Aegean Sea, in 2001, to open this market of more than 200 daily connections to competition. However, this authority was disbanded in 2004 and its competences were transferred to the Competition Commission, which cuts across all of the sectors. It is responsible for the protection of free competition in national transport and coastal trading, but it is the Council for Public Coastal Services (SAS) which is responsible for the definition of the network of these services.

The Port Regulation Authority, established in 2014, has administrative and financial autonomy within the Ministry of Maritime Affairs and Insular Policy. It is in charge of monitoring the concessions and public-private cooperation in the management of ports, particularly for fees for the use of infrastructure. It also provides mediation and services for the resolution of disputes between users and management bodies, and provides support to the authorities competent for the preparation of public contracts and for their fulfillment. Lastly, in conjunction with the Commission for Competition, it contributes to the elaboration of new port governance, for the grouping of small neighboring ports and centralization of the governance of the entire system.

The passenger transport regulatory authority, established in 2013, was in charge of the rules of the intercity bus market but it remained inactive for many years: it merged with the rail regulation authority in 2022. At the same time, the Ministry of Infrastructure and Transport and the administrative regions, which have become “competent local authorities,” saw their powers expand with regard to the organization of regular long-distance and intercity public transport services for passengers on their territories.

As of 1924, air transport was covered by a civil aviation service, under the control of the military until the 1950s. It was moved to the Ministry of Infrastructure and Transport, where it functionally became a directorate general and then, in 2020, an autonomous regulation authority. It is in charge of the respecting of the competition rules on an open market, as well as the surveillance of thirteen airports managed in concession (according to the public-private partnership formula). It also makes proposals to the ministry for matters involving new infrastructure and maintenance work.

Lastly, the Rail Regulation Authority (RAS) was established in 2010 with competences in compliance with the European directive: competition on the market which was theoretically open (but, at the time, still a

monopoly of the historical operator OSE), but also competence for the attribution of licenses, the rights and duties of passengers and control of safety. Since that time, the European reform, which has been implemented through a restructuring of the entire system, distinguishes:

- A single infrastructure manager: OSE SA,
- Three rail companies which hold licenses: Hellenic Train (now a subsidiary of the historical Italian operator, *Ferrovie dello Stato*) for passengers, Pearl (subsidiary of the Chinese shipowner Cosco, which controls the port of Piraeus) and Goldair for freight,
- Various service providers for facilities and equipment, maintenance, etc.

The companies belonging to the state are grouped within a holding company with seven components.

In compliance with the 2012 directive establishing a single European railway area, RAS is an independent authority, autonomous from a financial and administrative standpoint. It monitors the rail market, and is in charge of the handling of complaints from candidates who consider that they receive unfair or discriminatory treatment and can impose administrative sanctions in the event of infractions. Lastly, it makes recommendations regarding the legislative and regulatory framework appropriate for the creation of a healthy rail market in Greece and it publishes an annual report.

The rail regulatory authority recently underscored the safety problems of the rail network (poor functioning of digital equipment, insufficient personnel, etc.) but this alert was ignored. A national inquiry organization on air and rail accidents and transport safety was established at the beginning of 2023 (before the accident), but it is not yet operational.

ITALY

The Transport Regulatory Authority (*Autorità di regolazione dei trasporti*, ART), founded in 2011 and with its headquarters in Turin, is an independent administrative authority. It has regulatory authority in the transport sector, particularly with regard to conditions for access to infrastructures, the criteria for setting prices, the quality of transport services and the protection of passengers’ rights. It is a collegial body, composed of a chairman and two members, drawing on departments with 115 people.

The Authority carries out economic regulation, supervision and control activities, as well as consulting activities and reports to the Parliament and the government in order to promote efficient and sustainable mobility, on the national, local and urban levels. Its tasks include the setting of fees and tolls for railroads,



ports, highways and airports, but also include the minimal conditions of service quality, the rights of users, and productivity indicators.

The ART is also involved with the research and academic world and takes part in the work of the European regulators' network, IRG-Rail.

The agency works autonomously and with independence of judgement and evaluation, in compliance with the European regulations, respecting the principle of subsidiarity and the competences of regions and local authorities. It is thus the ART which defines the tender invitation processes for the attribution of exclusive transport services, draws up the list of the agreements to be included in the specifications, and which establishes the designation criteria for the tender committees. A significant moment in its history was the opening to competition of high-speed passenger transport, when it intervened to settle the relations between the infrastructure manager (*Rete Ferroviaria Italiana*, which also controls the road agency, *Azienda Nazionale Autonoma delle Strade*), Trenitalia (company 100% controlled by the FS company) and Italo (which came onto the market in 2006).

The ART submits an annual report to the Parliament to present the outlook for the regulation of the sector and the actions necessary to eliminate the obstacles to better functioning of the markets and the transport services involved and the prospects remaining to be defined.

From the outset, the authority had responsibility for all modes of transport. Its perimeter of intervention is not fixed however, so that it can take into account the systemic effects of the digital and ecological transition on the evolution of transport systems. For example, the digital multimodal mobility systems (Mobility as a Service, MaaS) receive a great deal of public financing and the possible applications are numerous, but the risks of market closures and discrimination are real and call for the intervention of the regulation authority. The agency thus collaborates with other authorities, in addition to the competition and market authority and the anticorruption authority, in particular with the authority for telecommunications, to deal with overlapping competences.

Among the new topics on the agenda, we see the updating of prices and agreements for airports and

roads, but also the problem of the saturation of high-speed lines as well as the Rome and Milan stations and the development of on-demand transport to substitute for traditional public transport.

POLAND

Rail transport is the only mode of transport in Poland which has an independent regulation authority: the Office of rail transport (UTK) established in 2003, an independent organization of which the chairperson is appointed by the Prime Minister. The UTK is a member of the group of independent European rail regulators (IRG-Rail).

The Office of rail transport supervises the proper functioning of the rail market.

Issues of rail development in the board sense are handled by the Ministry of Infrastructure (in charge of transport, inland navigation, maritime economy and water management). It has a Rail Department for the definition of the priorities of the national rail policy, market development, the development of infrastructure, adaptation to national and European standards and particularly in terms of the environment, technology and rail safety. It is also in charge of passenger transport, including the organization of the international, national and inter-regional (between voivodeships) transport of passengers, etc.

For the other modes of transport, the ministry has specialized bodies such as the Directorate General for Highways and Main Roads (GDDKiA), the Chief Inspectorate for Road Transport (GITD), the Civil Aviation Bureau (ULC), the Center for EU Transport Projects, the Polish Agency for air navigation services, the maritime and inland navigation offices, etc. The dominant mode of transport, road transport, does not have its own regulator (alongside the central and decentralized government agencies) and depends directly on the competition commission, which cuts across all sectors.

The Ministry also has decentralized services, while the regional authorities (voivodeships, districts and municipalities) have broad authority in terms of mobility and transport (particularly for the organization of public transport and for the development of the road network). The road network is divided between four institutional levels (see chart).

The main rail infrastructure manager is PKP *Polskie Linie Kolejowe* S.A. (PKP PLK), stemming from the historical operator PKP which was formerly vertically integrated. The PKP PLK, which has a network of 18,570 kilometers of rails and 2,000 stations, is in charge of investments, the making available of slots for carriers, managing traffic and setting schedules, ensuring safety, organization, etc. Alongside the main infrastructure manager, there are some fifteen other managers for small, local and specific rail facilities.

SPAIN

In addition to the functions of planning, investment and organization of the transport system under the responsibility of the General State Administration (see diagram hereafter) attributed to the various administrative units of the Ministry of Transports (now the Ministry of Transports, Mobility and the Urban Agenda, Mitma), two other actors appear in the organizational chart of the rail sector in Spain¹¹:

- The *Agencia Estatal de Seguridad Ferroviaria*, AESF (State Agency for Rail Safety)¹².
- The *Comisión Nacional de los Mercados y la Competencia*, CNMC (National Commission for Markets and Competition)¹³.

These two public organizations stem respectively from European directive 2016/798 on railway safety and directive 2012/34 establishing a single European railway area.

The AESF was founded in 2015 as a public establishment attached to the Ministry of Transports, in charge

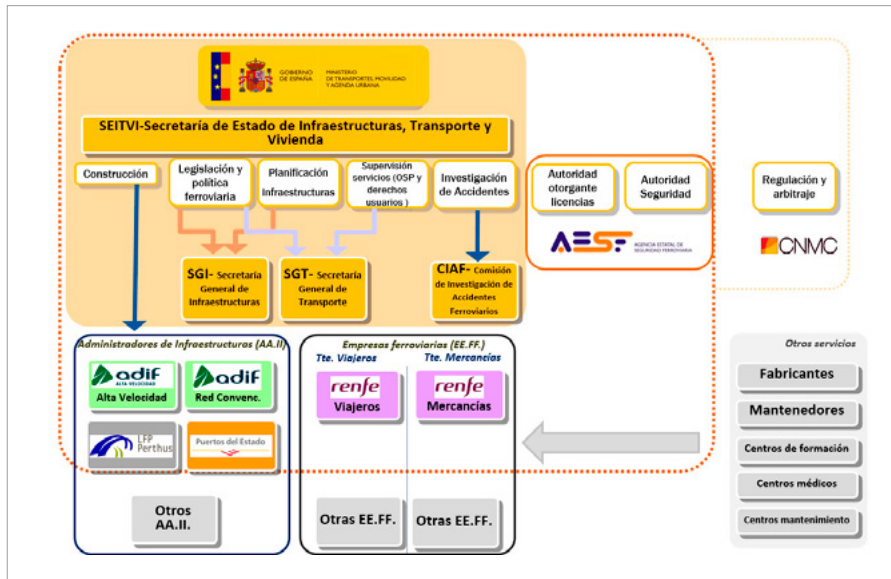
Poland : distribution of the road network between four institutional levels

Roads	Total	Extra-urban	Urban
National roads under the Directorate General of main roads and highways (GDDKiA)	19,477	15,329	4,148
Provincial roads under the voivodeship councils	29,127	24,352	4,775
District roads under the district councils	115,132	101,946	13,186
Municipal roads under the mayor and the city council	149,814	109,981	39,832

11 - Law 38/2015 of September 19 for the Rail Sector. The railroads under the responsibility of the autonomous communities, constituted of lines isolated from the rest of the network, are integrated vertically (infrastructure and services are managed by the same entity), come into the category of public service obligations and are not open to competition.

12 - <https://www.seguridadferroviaria.es>

13 - <https://www.cnmc.es>



Organization of the rail system under the responsibility of the Government in Spain

Source: [MITMA](#)

of the organization and verification of the safety of all elements of the rail system: infrastructure, rolling stock, personnel and operations. Likewise, it was attributed functions involving the granting, suspension and withdrawal of market release authorizations for rail companies¹⁴.

In a context of austerity of public finances, in 2013, the authorities in charge of several regulated sectors were merged, officially to reinforce the independence with respect to the government and to guarantee their legal safety. However, the members of the CNMC are appointed by the government based on a proposal of the Minister of the Economy and after a hearing before the parliament. Their term is six years, with no possibility of renewal. Six regulatory establishments were thus united in the new CNMC: the national commission for competition and the sectoral commissions for energy, telecommunications, postal services, the audiovisual media and transport. The Rail Regulation Committee established in 2003 and the Airport Economic Regulation Commission established in 2011 were subsequently merged into the Rail and Airport Regulation Committee, which finally became part of the CNMC.

The CNMC is a member of IRG-Rail.

In terms of transport, the CNMC was attributed functions for control of the functioning of the rail and airport markets, so that it could handle surveillance of the conditions of access of the operators to the infrastructure, particularly airport and rail fees. It mainly

monitors the plurality of the offer (competition on the market) and the equality of treatment of the various service companies, as well as the compatibility with EU regulations. It monitors the Network Reference Document (DRR) in order to eliminate any discriminatory clauses, as well as the fee structure for the use of infrastructure and services. The CNMC is also involved in arbitration and consulting.

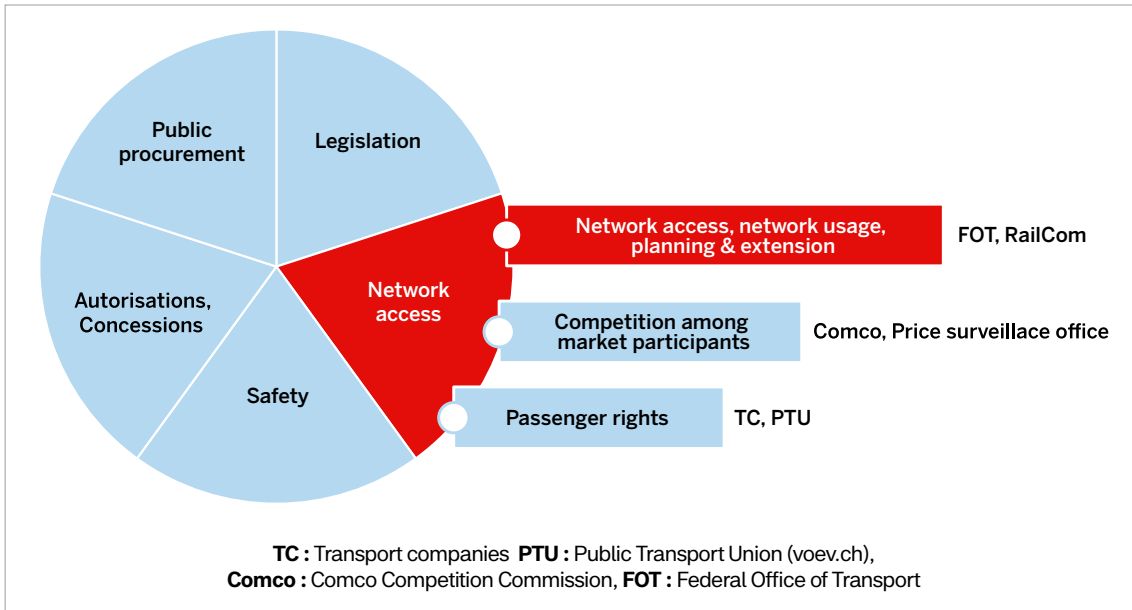
Every quarter, the CNMC publishes a report on the high-speed rail market for passengers and another one for rail freight transport. An annual report is also published.

SWITZERLAND

Within the government organization, transport falls within the large Federal Department of the Environment, Transport, Energy and Communications (Detec), which includes various regulation authorities and extra-parliamentary commissions in the fields of communication, electricity, postal services, broadcasting (for the handling of complaints), safety and lastly rail (RailCom).

The Rail Commission (RailCom) – called the *Commission d'arbitrage dans le domaine des chemins de fer* (CACF) until 2020 – is in charge of judging disputes relating to the granting of access to the network and the calculation of the fee for infrastructure use. It was established following the rail reform launched in 1999, of which the key point was the introduction of free access to the network, and it is in charge of monitoring

14 - Royal Decree 1072/2014, of December 19, establishing the State Agency for Rail Safety and approving its Status.



Tasks of the Federal Government in the rail sector

Source: [Rail Transport Commission Railcom](#)

to make sure that the principles of non-discrimination and transparency are respected. It is an extra-parliamentary commission of seven members appointed by the Federal Council.

As an independent decision-making commission, RailCom guarantees non-discriminatory access to the rail network, to transshipment facilities for combined transport and to connecting tracks co-financed by the Confederation, to local freight (between rail infrastructure and the connecting tracks or transshipment facilities of combined transport). The notion of access includes elements of price, access conditions, attribution of capacities and legal remedies.

To fulfill this mission, RailCom:

- As a specialized agency, rules on the actions undertaken by the rail companies and other transport companies. It can also carry out inquiries at its own initiative. The commission has sanction powers, while the parties have a possibility of recourse.
- As a surveillance authority, it carries out ex officio investigations and orders measures aiming to guarantee the absence of discrimination. It also plays a market observation role.

On the international level, it cooperates with other regulators, particularly for freight corridors.

The following diagram, established by the federal administration, shows the place of RailCom among all of the roles of the Government in terms of rail.

In thirty years of activity, the competences of the commission have evolved. It is now a stakeholder in the

long-term thinking on the future of the transport system, anticipating the ways in which its regulation will operate. This is particularly true for the digitization of rail freight, which will create new links between infrastructure and services, present financing problems for small rail companies and equal access to the capacities of the infrastructure and the distribution of tickets. Another topic is the development of an underground transport system for freight (Cargo sous terrain, CST – underground cargo), freeing up surface capacities for passenger transport, for which non-discriminatory access to transport services must be guaranteed.

Lastly, all of this thinking and these actions have been carried out with an outlook of euro-compatibility, in accordance with the seven bilateral agreements concluded between Switzerland and the European Union in 1999. These agreements govern the relations of reciprocity between the EU and Switzerland in terms of the free movement of people, ground transport, air traffic, technical barriers to trade, public contracts, research and agriculture. They were approved by referendum in 2000. Other complementary agreements have been signed since then, including the agreement on the collaboration of authorities for competition which took effect in 2014.