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*Kumitat għall-Kontroll tal-Baġit*

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6.7.2016

## **DOKUMENT TA' HĦDMA**

dwar ir-Rapport Speċjali Nru 8/2016 tal-Qorti Ewropea tal-Awdituri  
(Kwittanza 2015): "It-trasport ferrovjarju tal-merkanzija fl-UE: għadu mhux  
fit-triq it-tajba"

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Rapporteur: Marian-Jean Marinescu

## Introduction

The mobility of goods is an essential component of the EU internal market, and one that is crucial for maintaining the competitiveness of European industry and services. It has a significant impact on economic growth and job creation. In recent years, inland freight transport volumes in the EU (comprising road, rail and inland waterways) have stabilised at around 2300 billion tonne-kilometres per year, with road accounting for approximately 75% of this total.

However, transport has also a negative impact on the environment and on the quality of life of EU citizens. It accounts for around one third of energy consumption and of total CO<sub>2</sub> emissions in the EU. Promoting efficient and sustainable methods of transport such as rail and inland waterways over roads could help to lower Europe's dependence on imported oil and reduce pollution. According to the European Environment Agency, CO<sub>2</sub> emissions from rail transport are 3.5 times lower per tonne-kilometre than those from the road transport.

More sustainable methods of transport could also help to reduce the costs associated with road congestion, which are currently projected to increase by about 50% by 2050, to nearly 200 billion euros annually, and cut the number of transport fatalities.

The rail freight transport has the potential to become more competitive over medium and long distances although the total cost of an international train journey varies across Europe, depending on national access charges, the level of competition, the journey time and the economy of scale gained. Rail, together with inland waterways in some geographical areas, is also the most economical method of transport for certain specific types of goods, such as solid mineral fuels, raw materials and chemical products. The different stakeholders involved in the transport of goods - shippers, railway undertakings, infrastructure managers, national regulatory bodies and national safety authorities - also influence the performance.

The promotion of more efficient and sustainable methods of transport, and in particular of rail freight, has been a key part of EU policy for the last 25 years. In 2001, the Commission confirmed the importance of revitalising the rail sector, setting a target of maintaining the market share of the rail freight in central and eastern European Member States at a level of 35% by 2010. Finally, in 2011, the Commission set a target of shifting as much as 30% of road freight being transported further than 300 km to other modes of transport such as rail or waterborne transport by 2030, and more 50% by 2050.

The EU's policy objectives for shifting goods from road to rail have been translated into a series of EU legislative measures mainly aiming at opening the market, ensuring non-discriminatory access and promoting interoperability and safety. The EU budget also contributed with approximately 28 billion euros to funding rail projects between 2007 and 2013.

The two main sources of EU funding for rail infrastructure projects operate on the following basis:

- a) Projects co-financed by the ERDF and Cohesion Fund are implemented under shared management between the Commission and the MS. Projects are generally selected by the national managing authorities based on proposals submitted by the implementing bodies (that can be the infrastructure managers). The Commission examines projects whose total

cost exceeds 50 million euros and assesses operational programmes submitted by the national authorities. Co-financing can be provided at rates of up to 85%.

- b) The management of the technical and financial implementation of projects co-financed under the TEN-T Programme is the responsibility of the Innovation and Networks Executive Agency (INEA). The approval of each individual project submitted by the Member States' authorities is the responsibility of the Commission. Co-financing rate vary, up to 20% for works projects, up to 30% for cross-border projects and up to 50% for studies.

The financial support provided by the EU focuses mainly on the construction of new rail lines or renovation and upgrading of existing lines, benefiting normally both passenger and freight trains.

### **European Court of Auditors' (ECA) observations**

In this audit the Court assessed whether the EU had been effective in enhancing rail freight transport. It is worth noting that in 2010, the Court had already highlighted in Special Report 8/2010 a number of obstacles to developing a strong and competitive European rail transport. The Court states now that most of those obstacles remain to be effectively removed.

#### Rail freight transport in the EU remains unsatisfactory

According to the Court, the volume of freight transported annually by rail remained relatively stable between 2000 and 2012 (around 400 billion tonne-kilometres) despite the increase in volume of freight transported by road in the same period. This resulted in the market share of rail freight as a proportion of total inland freight transport declining slightly.

The general downward trend in the EU can be traced back to various problems that rail freight traffic is facing in many MS. These problems include a lack of competition in the market, rail traffic management procedures which are not adapted to the needs of the rail freight, other administrative and technical constraints. This situation is exacerbated by obsolete infrastructure which has been neglected for years in favour of road transport, with rail infrastructure projects being focused on the development of high-speed lines.

Although the situation of the rail freight sector remains generally unsatisfactory in terms of modal share and volume transported, the scale of the issue is not uniform across the EU. The Court analysis of Eurostat data is that overall in 9 out of 26 MS<sup>1</sup> the modal share of goods transported by rail has increased between 2000 and 2013 (Austria, Sweden, Germany, Finland, Italy, UK, Belgium, Denmark and Netherlands). All central and eastern European MS, whose modal share in 2000 was relatively high, have seen their performance decrease (particularly Czech Republic, Hungary, Slovakia, Romania and Poland).

The poor performance of rail freight transport has not been helped by the low speed of trains. On some international routes freight trains run at an average speed of only around 18 km/h. In central and eastern European MS, the average speed is between 20 and 30 km/h. This is also due to weak cooperation between the national infrastructure managers.

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<sup>1</sup> Cyprus and Malta do not have rail network.

The Court observed that many strategic and regulatory factors prevent rail freight from being more competitive. The shippers choose the mean of transport that best suits their needs, taking mainly into account: reliability, price, customer service, frequency and transport time. The method of transport is chosen on the basis of business criteria, and not on the basis of EU policy priorities.

Over the last 15 years, the Commission has made efforts to improve the conditions for transporting goods by rail. In particular, it has produced several different railway packages and other legislative measures. These measures were intended to open up national markets, harmonise rules, better target EU funding on sustainable modes of transport and make railways more competitive and interoperable at EU level in order to achieve a single European railway area.

To ensure that these conditions were actually implemented in practice, the Commission launched several infringement procedures concerning EU Directives on railway infrastructures and on safety and interoperability.

The Commission also promoted the coordination of various rail freight stakeholders contributing to the development of platforms and working groups - the European Network of Rail Regulatory Bodies, the Platform for Rail Infrastructure Managers in Europe and the Dialogue of Railway Undertakings -, as well as appointing a European coordinator for network corridors and an additional one for the European Rail Traffic Management System. Additionally, the Commission has set up nine rail freight corridors, each with its own governance structure and one-stop shop to ensure that traffic management, access to the infrastructure and investment in rail infrastructure are coordinated well.

Notwithstanding this effort, at the time of the audit a single European railway area was still a long way from being achieved: the EU's rail network is still a system of 26 separate rail networks which are not fully interoperable. Across the continent there are various infrastructure managers, national safety authorities, and very different national rules governing path allocation, management, pricing, etc. All this hampers the competitiveness of rail freight transport.

Rail freight market liberalisation has achieved uneven progress in MS and certain anti-competitive practices still prevail. The incumbent freight operator accounts for more than 60% of market share in the large majority of the MS (in some MS it is more than 90%), and there are cases where they buy other rail freight operators both in their home market and in other MS. This may impair competition, as the EU market may be dominated by a small number of major companies (ex. the German incumbent freight operator has become the main operator in Denmark, the Netherlands and the UK). The national regulatory bodies created to ensure non-discriminatory access to the rail network did not always enjoyed the independence, powers and resources they needed to carry out their duties.

The traffic management procedures have not been adapted to the needs of rail freight sector, even within rail freight corridors. The rail network in the EU is generally designed for freight and passenger trains that operate through the allocation and management of traffic paths. This is done individually by each infrastructure manager. However, these procedures are generally not adapted to the specific needs of rail freight transport, which is cross-border in more than 50% of cases.

The timing set by the infrastructure managers for the construction of the annual timetable is not adapted to the needs of the freight transport sector, as paths have to be booked around 1 year in advance. Unlike passenger traffic, which is more regular and easier to plan, it is difficult for freight operators to anticipate their future demand so far in advance and reserve the most suitable paths available on the network.

Rail freight operators, especially smaller ones, are therefore generally forced to use the ad hoc system, where a limited number of paths are available, with the result that the shipper may have no suitable path to choose from or a less suitable path is offered leading to higher costs and more time needed. Reservation charges paid by freight operators may be useful instrument to discourage 'empty' reservations; however asymmetric penalty systems can further exacerbate the difficulties rail freight operators face in using the annual time-tabling system. Also, the set of priority rules set by infrastructure managers tend to disadvantage freight traffic, and the infrastructure manager when managing the circulation of trains gives normally priority to the passenger trains in case of network disturbances or works.

This makes it difficult for rail to compete with other modes of transport, especially road transport, which has an infrastructure openly accessible across the EU.

#### European rail freight corridors

The aim of the rail freight corridors regulation was to facilitate and promote rail freight traffic operations. In particular, it established nine rail freight corridors (RFCs), six of which have been in operation since November 2013.

The regulation established one-stop shops (OSS) to allow operators to request a train path in the form of so called pre-arranged paths (PaPs) or reserve capacity for freight trains crossing at least one border along the corridor in a single place and in a single operation.

The Court found that, in the first year of operation, the rail freight corridors have supported rail freight traffic only to a limited extent and with many shortcomings. In particular, the number and quality of the PaPs made available, as well as the timetable for requesting a path via the OSSs, are not adapted to the needs of freight transport. There are not particular rules applying to the circulation of the European rail freight corridors, and this puts freight trains in disadvantage when network disturbances occur. The rules and procedures governing the nine rail freight corridors are not harmonised either along or between corridors, and there is no obligation in the legislation for rail freight corridors to adopt common procedures.

Different national regulations and rules applicable to rail freight operators in the EU are the result of the separate development of 26 railway networks and of differences in how the EU railway regulatory framework has been interpreted and transposed. The Commission has managed to remove some administrative and technical barriers, for example by establishing the European Railway Agency. The Agency promotes interoperability, harmonisation of technical standards, and development of a common approach to safety in close cooperation with the MS and the rail sector stakeholders.

However, as the Court reported in its SR 8/2010, certain of those barriers still persist, increasing the cost of transporting goods by rail and making rail freight operation more complex and of difficult access, especially for new entrants. These barriers include lengthy procedures for approving vehicles and issuing safety certificates for railway undertakings.

Language requirements for locomotive drivers are another issue. It is compulsory for a locomotive driver to be able to communicate in the language of the country in which the train is travelling. As a result, it is usually necessary to change the driver at the border point, which is costly and cumbersome. The constraints also concern technical aspects of train operations which hinder interoperability: different signalling systems; different electrification systems; differences in the maximum length of trains; different categories of axle load and lack of a standard European track gauge. Some of these constraints have already been addressed but have a deadline for implementation by 2030 or even 2050.

Customer service is one of the main factors for shippers when choosing the mode of transport. The service provided by the rail operators includes not only the price of the service but also the reliability or the transport time. However, the infrastructure managers are not formally obliged to publicly disclose network performance data such as paths allocated and cancelled, average speed of freight traffic on the network, network punctuality and reliability. As a result, infrastructure managers have no pressure to improve the performance of the network and shippers have difficulties in obtaining reliable information on the customer service offered by rail freight operators, especially new entrants, since the data they might provide to advertise their services cannot be cross-checked.

As of 2016, the Commission obliges the MS to provide Railway Market Monitoring Scheme (RMMS) data, including successful and rejected path allocations, punctuality and cancellations of freight services, number and description of complaints relating to service facilities. Despite the information on average speed of freight service remaining optional, those measures should improve quality of the service and increase transparency.

Remaining limitations identified relate to the satisfaction survey only covering rail freight corridors and the questionnaire that MS are required to complete does not contain any evaluation of users' satisfaction with the whole network; performance indicators are defined individually for each rail freight corridor, and might not therefore be consistent or comparable.

More generally, the Court also noted that the Commission does not regularly monitor two other key elements of its rail freight policy: a) the progress made towards the achievement of the rail freight policy targets set in the 2011 White Paper, of shifting as much as 30% of road freight transported over distances greater than 300 km to other modes of transport by 2030 and more than 50% by 2050. In addition, no intermediate targets have been set; b) the share of goods transported by electric locomotives, whose CO<sub>2</sub> emissions are lower than those of diesel locomotives.

The Court observed that charges for accessing rail infrastructure compare unfavourably to those accessing roads. Rail access charges for freight trains vary significantly across the MS, even in the same rail freight corridor. Also, they do not always reflect the condition of the infrastructure. In addition, rail access charges for freight trains in the EU are on average 28% and 78% higher than for intercity passenger trains and suburban trains respectively.

On the other hand, trucks access road infrastructure at no cost except charges for toll roads covered by a heavy vehicle fee, if such a fee exists. The externalities produced by rail and road transport (environmental impacts and pollution, congestion or accidents, etc.) are not taken into account in a comprehensive manner when setting the price to be paid by users for access to infrastructure. In addition to balancing the access charges between different methods

of transport, there are other measures which can be applied to promote rail freight transport. These include road traffic restrictions for lorries and subsidies for companies carrying out rail-road combined transport (Switzerland apply does practices). These aspects further reduce the competitiveness of freight transport by rail compared to road.

#### The infrastructure needs targeted by EU funding

The Court concluded that the allocation of EU funds to road and rail varied significantly between Cohesion policy funding (EDRF and Cohesion Fund) and the TEN-T programme. The former were mainly allocated to road whether the latter was devoted to rail. Under the Cohesion policy funding schemes, transport projects could benefit from a co-financing rate of up to 85%, whereas the co-financing rates of the TEN-T programme during the 2007-2013 period, with major focus on rail were up to 20% for works projects, up to 30% for cross-border projects and up to 50% for studies.

This situation will tend to continue during the 2014-2020 period, with the CEF (successor of TEN-T) focusing on rail investments and Cohesion policy funding prioritising roads.

When allocated to rail, EU funds did not specifically target rail freight needs but rather rail passengers' needs. Investments in rail connections to ports and cross-border sections, which are more relevant for freight, have been limited (ex. in Poland with bottlenecks to access the port of Gdynia, and in France with the poor conditions of the port of Le Havre). In addition, EU funding generally did not prioritise other rail freight needs in terms of infrastructure. Regulation (EU) No 913/2010 stipulates that investment plans must be prepared for each rail freight corridor to help to identify specific needs for rail freight infrastructure investments. For the six rail freight corridors that started operation in November 2013 the plans were indeed available, however, no financial commitment from the MS concerned has followed.

Finally the Commission does not monitor how much EU funding for rail infrastructure projects has been allocated to support projects with a freight component, cross-border sections, or the sections connecting ports to the rail network. This makes it more difficult for the Commission to ensure that the needs of the rail freight sector are being effectively targeted by EU funding.

As regards the performance, the Court noted there has been a lack of coordination of investments in some cases which led to the network being developed in a piecemeal fashion. Some projects resulted in time savings of a few minutes therefore not increasing the volume of goods transported. This shows a low cost-efficiency of the projects co-funded from the EU budget. Six projects were significantly delayed, which put at risk the performance of the whole rail line on which they are implemented. Half of the projects audited lacked quantified objectives in terms of number of freight trains, volume of goods to be transported or time savings.

The poor maintenance of the rail network affects the sustainability and the performance of EU-funded infrastructure. The lack of priority given by infrastructure managers to the maintenance of the rail lines used more often by freight trains is a result of the preference given to passenger lines.

## Conclusions

Overall, the Court concluded that the performance of the rail freight transport in the EU is not satisfactory: lacks competition, rail traffic management procedures not adapted to the need of the rail freight sector, low speed of freight trains, administrative and technical constraints and obsolete infrastructure.

The competitiveness of European rail freight transport is still hampered by many strategic and regulatory factors. Market liberalisation has achieved uneven progress in the MS; rail traffic procedures are not adapted to the specific needs of the rail freight sector, even within rail freight corridors; a lack of transparency on the performance of the rail freight sector does not stimulate improvements in the customer service offered to the users; and there is not a level playing field between different modes of transport.

The Court also concluded that rail freight infrastructure needs should be better targeted by EU funding. The shifting of goods from road to rail was not achieved; limited investment was made in improving the infrastructures of rail transport of goods; when made, that investment did not result in an increase in rail freight transport performance; and the maintenance of the rail network remained poor.

## ECA's recommendations

In light of its findings the ECA recommends that:

1. On market liberalisation, the Commission and the MS should ensure that the national regulatory bodies possess and exercise the necessary powers, independence and resources to carry out the tasks assigned to them, in particular to prevent, together with competition authorities, anti-competitive practices being committed by infrastructure managers and incumbent railway undertakings;
2. On traffic management procedures, the Commission and the MS should initiate the adaptation, in particular in rail freight corridors, of the traffic management rules applied by infrastructure managers to the specific needs of the rail freight sector. The Commission should initiate the harmonisation of the rules and procedures governing various rail freight corridors to facilitate rail freight operations across Europe, as well as considering how a consistent approach to path allocation could best be ensured across the whole rail network;
3. On administrative and technical constraints, the Commission, together with the MS, should simplify and harmonise the procedures for vehicle approval and for issuing safety certificates to railway undertakings. The Commission and the MS should also assess the possibility of progressively simplifying language requirements for locomotive drivers to make medium-and long-distance rail freight traffic in the EU easier and more competitive;
4. On monitoring and transparency of the performance of the rail freight sector, the Commission should regularly monitor progress made towards achieving the 2011 Transport White Paper targets for shifting goods from road to rail and should set intermediate targets in future policy papers. The Commission and the MS should evaluate the satisfaction level of rail freight operators, shippers and other users of the entire rail network to promote good quality service for the users of the rail network. The Commission should ensure that MS effectively participate in the Railway Market



Monitoring Scheme (RMMS) and should initiate the harmonisation of quality and performance monitoring across rail freight corridors;

5. On fair competition between different modes of transport, the Commission and the MS should promote a level playing field between the different methods of transport by introducing additional regulatory and/or other measures to support rail freight traffic when necessary, and should also stress some externalities such environmental impacts, congestion or the number of accidents produced by each method of transport;
6. On the consistent approach between policy objectives and fund allocation, the Commission and the MS should allocate available EU funding for transport infrastructure in line with the EU transport policy objectives, enhancing a sustainable, competitive and efficient rail freight transport system. In particular, EU funds should target as a priority bottlenecks and missing links such as rail connections to ports and cross-border areas, as well as other measures with a potentially high impact on rail freight transport competitiveness such as the renovation of point infrastructure and last-mile facilities. The Commission should then monitor how much EU funding is actually invested into rail freight projects;
7. On the selection, planning and management projects, the MS, together with the Commission, should improve the coordination of rail investments in order to maximise their effectiveness and avoid the rail network being developed in a piecemeal fashion. In this context, funding of investments in rail freight corridors should be prioritised. The Commission and the MS should assess projects' capacity to increase rail freight performance and sustainability. Quantitative objectives for freight should be systematically included in project applications;
8. On rail network maintenance, the MS should, in the framework of the business plans and indicative infrastructure development strategies set by the infrastructure managers, ensure the proper maintenance of the rail network. The Commission should verify that MS implement those strategies.

### **European Commission's replies**

The Commission considers that the relative stability in the modal share of railway freight transport is a moderate success, especially taking into consideration the restructuring of the economies of the central and eastern European MS resulting in the decrease of the share of most tonne-km oriented traditional industries. Moreover, the Commission is confident that with the actions recently undertaken the modal share of rail freight will increase in the years to come. The Commission considers more time is needed to measure the effects of the rail policy.

The Commission agrees that the trends in the share of rail in the freight markets are largely the result of regulatory and cost considerations of transport companies and road hauliers as well as the fragmentation of the European rail market into several national segments. In order for them to be reversed, there needs to be a larger emphasis placed on these issues. The Commission considers that some of those shortcomings have been addressed in recent legislation.

With regard to the recommendations, the Commission accepts all the Court's

recommendations addressed to it and points out that rail network maintenance is a national competence and is not eligible for EU funding.

### **Rakkomandazzjonijiet mir-rapporteur ghal inkluzjoni possibbli fir-rapport tal-kwittanza tal-Kummissjoni għall-2015**

#### Il-Parlament Ewropew:

1. Jilqa' r-rapport tal-Qorti, japprova r-rakkomandazzjonijiet tagħha u jinsab sodisfatt li l-Kummissjoni taċċettahom u li se tikkunsidrahom;
2. Jiġbed l-attenzjoni lejn l-oqsma fejn l-azzjoni mill-Istati Membri u l-Kummissjoni hija meħtieġa l-aktar: il-liberalizzazzjoni tas-suq, proċeduri ta' ġestjoni tat-traffiku, restrizzjonijiet amministrattivi u tekniċi, monitoraġġ u trasparenza tal-prestazzjoni tas-settur tat-trasport ferrovjarju tal-merkanzija, kompetizzjoni ġusta bejn il-modi differenti tat-trasport, approċċ konsistenti bejn l-oġġettivi tal-politika u l-allokazzjoni tal-fondi, koordinazzjoni mtejbja bejn l-Istati Membri u l-Kummissjoni fl-għażla, l-ippjanar u l-ġestjoni tal-proġetti u l-manutenzjoni tan-netwerk ferrovjarju;
3. Jinnota li l-Kummissjoni ma evalwatx tajjeb l-impatt tal-pakketti leġiżlattivi li nediet mis-sena 2000 'l hawn dwar is-settur ferrovjarju, b'mod partikolari it-trasport ferrovjarju tal-merkanzija; jiddispjaċih li l-fondi tal-UE investiti f'diversi proġetti ma jistgħux jitqiesu bħala kosteffettivi;
4. Iqis li t-tkomplija tas-sitwazzjoni attwali fis-settur ferrovjarju se twassal sabiex ma jinkisbux l-oġġettivi dejjem jinbidlu tal-2030;
5. Iqis li huwa fl-interess tal-Istati Membri li ssir valutazzjoni tal-impatt komuni u mandatorja ta' leġiżlazzjoni futura tat-trasport ferrovjarju tal-merkanzija biex ikun żgurat li jingħelbu b'mod effikaċi n-nuqqasijiet relatati ma' inkompatibilitajiet tan-netwerk;
6. Jinnota li s-settur ferrovjarju ġeneralment huwa korporattiv ħafna u li dan jista' jaffettwa l-perċezzjoni tal-liberalizzazzjoni tas-suq, bir-riżultat li jkun jidher aktar bħala theddida milli bħala vantaġġ;
7. Iqis li t-trasport ferrovjarju tal-merkanzija huwa wiehed mill-aspetti ewlenin tas-suq uniku għall-prodotti u jistieden lill-Kummissjoni biex tagħtih impetu ġdid fi hdan l-istrategġija tas-suq uniku; jitlob li tiġi stabbilita strategġija tat-trasport ferrovjarju tal-merkanzija;
8. Jitlob evalwazzjoni komprensiva tat-trasport ferrovjarju tal-merkanzija tal-Unjoni, b'enfasi partikolari fuq l-implimentazzjoni tar-Regolament (UE) Nru 913/2010 inkluż punt uniku ta' servizz u allokazzjoni tal-mogħdijiet tal-attività, u evalwazzjoni, b'mod parallel, ta' kurituri tal-merkanzija u kurituri tas-CEF inklużi l-proġetti diġà approvati taħt is-CEF;
9. Jitlob evalwazzjoni komprensiva tal-interoperabbiltà tas-sistemi ferrovjarji nazzjonali;
10. Jitlob li ssir evalwazzjoni tal-istrategġija tal-Istati Membri għat-trasport mfassla b'segwitu għall-Ftehimiet ta' Shubija dwar l-armonizzazzjoni transkonfinali u l-operabilità tal-

kurituri TEN-T;

11. Jitlob pjan ta' azzjoni biex jappoggja l-implimentazzjoni shiha u rapida tar-4 Pakkett Ferrovarju;
12. Jiddispjaċih li bosta mill-ostakli għall-iżvilupp ta' trasport ferrovarju Ewropew b'saħħtu u kompetittiv li ġew identifikati mill-Qorti tal-Awdituri fir-rapport tagħha 8/2010 għadhom qed ifixklu l-progress fis-settur.