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A COMPARATIVE ANALYSIS OF EU AND TURKISH RAILWAY POLICIES

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Introduction

Railway transportation has known a tremendous success since it emerged in the 19th century in the United Kingdom. It would indeed become in the first half of the 20th century a major means of transportation across Europe and would later spread to cover the whole globe. Famous railway lines such as the Orient Express or the Trans-Siberian still continue to be symbols of a past glory. However, it faced also a significant decline in the second half of the 20th century in the developed world as a result of stark competition from the automobile industry and the burgeoning air transportation industry. The European Economic Community tackled this decline from a very early stage beginning in the 1970s. It is important to underline that railway transportation indeed requires a significant investment (by the State), thus, the railway sector has long been under state monopolies in many EU Member States, as it is still in Turkey. The sector was developed within the national borders of Member States. There has been a fragmentation of the European railway area. For the European Commission, this fragmentation is the main cause for the decline of railway transportation. It is not sufficiently competitive against open sectors such as air transportation. As for Turkey, from early on, in the first years of the Republic, the State actively supported the

development of the railway network. New lines were inaugurated to cover the whole nation. This state support would see a gradual decrease beginning in the 1950s with a general transportation policy which has tended to favour road transportation rather than railway. However, the last decade has seen nonetheless tremendous investments for the sector, notably with the establishment of high-speed lines in Turkey.

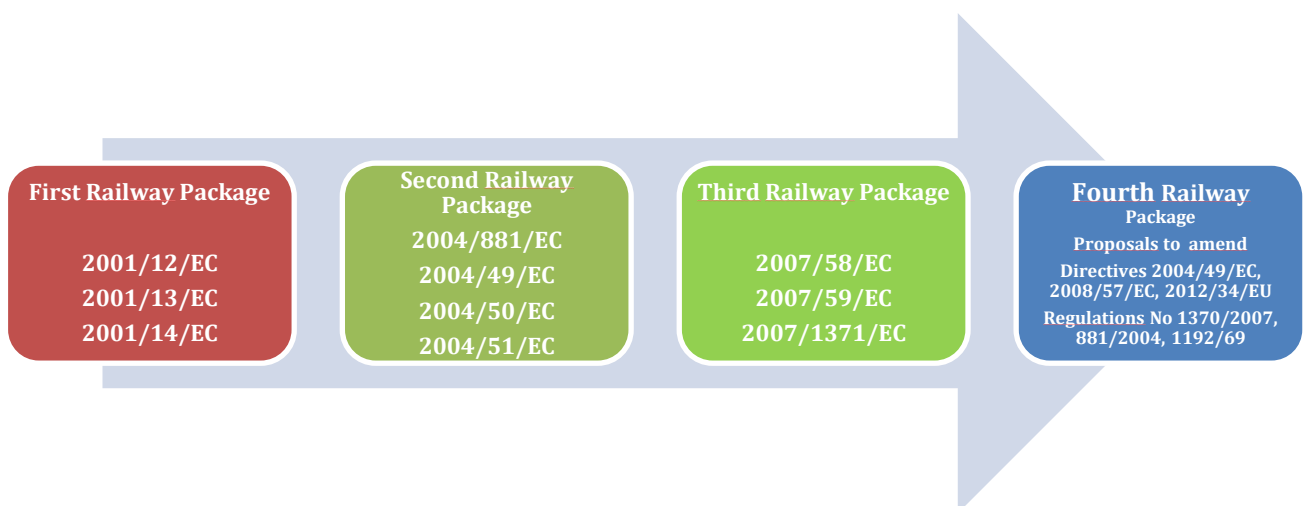
EU Railway Policy

The European Community (later the European Union) aimed to create a single European railway area from the beginning, by merging and modifying the existing national legislations. As such, one may describe three main principles of EU rail policy: financing and pricing of the infrastructure, lifting barriers to competition and regulatory oversight. On the other hand, EU rail policy continues to experience several challenges. Those are as follows:

- ✓ Economic perspective: local connections can open up production areas, improve traffic flow and enhance the European energy balance;
- ✓ Image perspective: several European manufacturers are among the world leaders in the rail sector. The development of the railway network is therefore a showcase for European technology;
- ✓ Human perspective: the train improves the free movement of all EU citizens. This is enshrined as one of the fundamental principles of the EU as stipulated in the Treaty of Rome with the “four freedoms”.

There have been several European directives in the 1990s, but it is significant to underline that major railway reforms in the EU actually started only at the beginning of the 21st century. To prevent the British scenario during the Thatcher years and later on (rapid liberalisation accompanied by a wave of accidents and an explosion of costs), the EU opted for a very gradual liberalisation, through what is called "legislative packages". There have been a total of 4 legislative packages as regards the railway sector: The first package (2001), the second package (2004), the third package (2007) and the fourth package (2014).

Legal Developments



The first Railway Packages

The first package has two main aims¹:

- ✓ To open access rights for rail services of freight and passenger transportation, without any discrimination;
- ✓ To have a legal separation between the manager responsible for the establishment, management and maintenance of the railway infrastructure and the railway company providing services of freight and passengers transportation.

Furthermore, the first package includes three significant directives: Directive 2001/12/EC of the 26 February 2001 which provides for the opening to competition of freight on the trans-European rail freight network, Directive 2001/13/EC of the 26 February 2001 which focuses on the licensing of railway companies and Directive 2001/14/EC of the 26 February 2001 which emphasises on the allocation of railway infrastructure capacity, pricing of rail infrastructure and safety certification.

The second railway package has two main aims²:

- ✓ To open to competition the European rail freight sector;
- ✓ To create a European Railway Agency.

In contrast to the first package, the second package has shown to be more comprehensive by its content. As regards the main legislations (one regulation and three directives), one may mention the following: Regulation 2004/881/EC of the 29 April 2004 which established a European Railway Agency in Valenciennes (France) and which purpose is to harmonise safety rules, Directive 2004/49 of 29 April 2004 which focuses on the safety of the railways notably with the creation of a national safety authority in each Member State, Directive 2004/50 of the 29 April 2004 which emphasises the key importance of strengthening the interoperability of the trans-European rail system and Directive 2004/51 of the 29 April 2004 which aimed at opening to competition the freight transportation component of the entire rail network. Moreover, one may note that with the accession of 10 new Member States in the EU in the same, the relevant packages have been applied to these countries as well with a right to access to the European and trans-European rail networks.

The third railway package has two main goals³:

- ✓ To open to competition the international rail services;
- ✓ To accelerate the technical and legal integration of the European railway network.

¹ European Commission, *First railway package of 2001*, 2001,
http://ec.europa.eu/transport/modes/rail/packages/2001_en.htm

² European Commission, *Second railway package of 2004*, 2004,
http://ec.europa.eu/transport/modes/rail/packages/2004_en.htm

³ European Commission, *Third railway package of 2007*, 2007,
http://ec.europa.eu/transport/modes/rail/packages/2007_en.htm

In order to fulfil those goals, a total of three directives have been enacted. They are as follows: Directive 2007/58/EC of the 23 October 2007 which aimed to allow the opening to competition of international passenger transport, Directive 2007/59/EC of the 23 October 2007 which established a European certification for train drivers and Regulation 2007/1371/EC of the 23 October 2007 which launched a unified system of rights and obligations of rail passengers.

Nonetheless, it can be said that the above mentioned reforms have failed to stop the decline of railway transportation. Indeed, between 1996 and 2008, the share of rail freight has decreased by two points to fall to 10.8%, while road freight has increased from 42.1% to 45.9%⁴. Furthermore, transnational rail services are still faced with technical, legal and political obstacles. Moreover, the ongoing financial crisis in many EU Member States does not render the situation easier. In that respect, the European Commission has described two main impediments which should be tackled by the Member States and the institutions in cooperation: lack of investment and limited competition. Indeed, the level of investment is insufficient in order to further maintain and develop the railway sector. On the other hand, the increased quality of the railway sector is of utmost importance in order to strengthen the competitiveness of the sector. Moreover, in certain EU member states, there remains a lack of transparency of the market conditions and a poor functioning institutional framework, which complicates the work of new actors wishing to provide competitive rail services. Furthermore, within key EU institutions such as the European Parliament, there is strong opposition to railway reforms. As means of an example, one may mention Isabelle Durant, Belgian MEP and Vice President of the European Parliament. She did notably argue that the liberalisation of railway transportation does not necessarily lead to a fall in prices and to a strong development of the sector. In contrast to her argument, some have argued that the liberalisation of air transportation in the 1990s did in fact allow a proliferation of airlines and thus a drop in prices, toppled with a significant increase in traffic.

The fourth Railway Package

The fourth package has two main goals⁵:

- ✓ To open domestic passenger transport services to competition;
- ✓ To deepen the separation between infrastructure manager and Railway Company

Furthermore, the also 4th package includes other provisions such as the empowerment of the European Railway Agency or the harmonisation of procedures related to security certificates. It is necessary to stress that there have been significant difficulties in developing this package. Indeed, the 4th package had several opponents which lobbied against the approval of the package in Brussels. The opening of the domestic market will

⁴ European Parliament, *Debates: Explanations of vote*, 16 November 2011, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20111116+ITEM-007+DOC+XML+V0//EN>

⁵ European Commission, Fourth railway package – Commission proposals of 2013, 2013, http://ec.europa.eu/transport/modes/rail/packages/2013_en.htm

allow authorities to make calls for bids for public service contracts. However, these call for bids procedures were postponed to 2022. In addition, there will be "important exceptions", according to former EU Commissioner for Transportation Siim Kallas. Following a vote in the Plenary Assembly of the European Parliament on the 26 February 2014 where the Fourth Package was tremendously amended, Mr. Kallas was quoted as saying the following: *"This vote is very disappointing because these amendments will limit competition"*⁶.

As regards the relationship between the infrastructure manager and the railway company, it is worth to underscore that there are wide differences between Member States in that respect.

- ✓ Vertical separation or unbundling: the two bodies are completely independent, such as the UK, Sweden or Spain
- ✓ Vertical integration: the two bodies are legally separated but coexist under the same holding, such as Germany, Italy or Austria.
- ✓ Semi integrated or hybrid: the two bodies are independent, but the infrastructure manager outsources some of its functions to the railway company, such as France.

The initial draft of the Commission aims to oblige the unbundling. However it has suffered a lot of pressure from various circles and this project has been currently renounced (for the moment).

Turkish Railway Policy

The first railway lines of the former Ottoman Empire were built by European engineers (i.e. the famous Berlin-Bagdad line as well as the Orient Express). Following the foundation of the Republic of Turkey in 1923, there had been a spectacular growth in the Turkish railway sector. Indeed, both under Presidents Ataturk and Inonu, tremendous investments were allocated to the sector, building new lines connecting all regions of Thrace and Anatolia. However, following the end of the Second World War, investments plummeted and like in other European countries, the sector saw a significant loss of interest with the highway network coming to the forefront of the government's transportation priorities beginning in the 1950s. This loss of interest would continue well into the beginning of the 21st century. Between 2001 and 2009, freight transportation has remained stable despite fluctuations, while passenger transportation has experienced a significant decline (-7.9% during this period). In 2000, it is estimated that road transportation represented 93% of the market, railway transportation 4%, inland water transportation 1% and air transportation 1%. The low market share of railway transportation did not see a significant increase in the following years. Moreover, in 2009, rail traffic intensity in Turkey is equivalent to only 59% of the average rail traffic intensity in the EU⁷. Furthermore, in contrast to many EU Member States, the rail infrastructure is deficient

⁶ European Commission, http://europa.eu/rapid/press-release_IP-14-192_en.htm

⁷ World Bank Report 2013, Railway Reform in South East Europe and Turkey: On the Right Track? Turkey http://siteresources.worldbank.org/ECAEXT/Resources/258598-1256842123621/6525333-1306937865933/annex1_turkey.pdf

and obsolete in many areas. Indeed, before the inauguration of the Marmaray tunnel (a Bosphorus undersea railway tunnel) in 2013, there were two separate railway networks in Turkey, one for Thrace (European Turkey) and one for Anatolia. However, there has been an increase of rail infrastructure investment for several years.

Turkish Railways (*Türkiye Cumhuriyeti Devlet Demiryolları*, TCDD), is the public company that operates the public rail system in Turkey. This state-owned company has several missions: it operates all passengers, freight and suburban trains; it manufactures and maintains the wagons, and manages also several harbours. As of 2009, it employed 25,593 people⁸. Like the other state-owned railway companies in Europe, TCDD cannot be described as being a competitive and profitable company. Furthermore, it is the largest loss-making state enterprise in Turkey. In that respect, officials from TCDD have pointed out to five main problems:

- ✓ heavy financial losses and growing debt;
- ✓ products and services not meeting market demand;
- ✓ highway-oriented transport policy and regulations;
- ✓ intensive political interference;
- ✓ significant labour costs.

Since the late 2000s, there has been much investment in the sector, for the maintenance and construction of the lines, the development of (national and international) freight transportation and the construction of High Speed Train (HST) lines. 13.5 billion Turkish Liras were allocated to the railway sector between 2003 and 2009. In parallel to the investment which aimed at enhancing the existing railway network and the construction of new lines, new draft laws were prepared for a new strategy in the railway sector. These new draft laws have several goals which are as following⁹:

- ✓ liberalisation of the railway sector in fair conditions;
- ✓ creation of a transparent and independent inspection and regulatory structure;
- ✓ granting operating licenses and safety licenses for public and private railway operators;
- ✓ allowing more than one railway active operator in the sector, in order to ensure competition;
- ✓ making the railway sector competitive in comparison to other transportation sectors;
- ✓ having infrastructure manager and operator independent from each other.

The legislation outlining the legal framework for liberalisation of the railway sector was published in the Official Journal of the Republic of Turkey at the beginning of May 2015¹⁰. There will be the opening of the market at the end of the year, the unbundling of

⁸ TCDD Annual Report 2009, www.tcdd.gov.tr

⁹ Ministry of Transportation and Communication in Turkey, Transportation in Turkey Report, October 2011
<http://www.comcec.org/UserFiles/File/ulastirma/%C3%9CLKE%20RAPORLARI/Turkey.pdf>

¹⁰ Official Journal of the Republic of Turkey, 2015, <http://www.resmigazete.gov.tr/default.aspx>

the TCDD (TCDD as operator and TCDD Altyapı as infrastructure manager), the permission for private investors to build and to operate new railway infrastructures and the creation of the *Directorate General of Railways*, which oversees railway competition.

EU programme

IPA funds are implemented in Turkey since 2007 through three multi-annual operational programmes¹¹: **Environmental Operational Programme (EOP)**, **Transport Operational Programme¹² (TOP)** and **Regional Competitiveness Operational Programme (RCOP)**. The overall objective of the Transport Operational Program is to improve the competitiveness and safety of the transportation infrastructure sector in Turkey. One of the main priorities of the IPA transport operational program in Turkey is the improvement of the railway infrastructure. This priority aims to:

- ✓ To modernise the railway infrastructure;
- ✓ To ensure safe transportation, better service and integration with the TEN-T network;
- ✓ To complete missing links of Turkish rail transport network connecting to TEN-T;
- ✓ To promote international and transit movement of passenger and freight in Turkey.

Conclusion

In order to alleviate the decline of the railway sector, the European Commission has chosen to liberalise the European railway sector. Furthermore, this liberalisation has also influenced other sectors such as air transportation which has also been liberalised beginning in the 1990s. As a result of this liberalisation, there has been an increase in traffic and a fall in prices. The Commission explained that a similar trend would be seen also for the railway sector. Furthermore, it is significant to underline that the liberalisation is gradual, through four legislative packages in a 15 year period. Nevertheless, there are several obstacles to liberalisation, notably a vocal opposition movement which lobbies the Commission in order to drop its proposals. Representatives of environmentally friendly and of the European Greens within the framework of the European Parliament form an important component of this opposition movement. As regards the Turkish railway network, after a long demise, the late decade has shown a remarkable boost. Indeed, thanks to tremendous investments, notably with the establishment of high-speed lines, interest for the railway sector has surged. Furthermore, in line with Turkey's EU accession process and the harmonisation of Turkish legislation with EU legislation as regards the railway sector, the infrastructure

¹¹ Project 07 02 27, *Reform of the Turkish Railways*, IPA
http://ec.europa.eu/enlargement/pdf/turkey/ipa/tr_07_02_27_reform_of_the_turkish_railways_en.pdf

¹² IPA Transport Operational Programme in Turkey,
http://ec.europa.eu/regional_policy/fr/funding/ipa/turkey/transport/

of the Turkish railway sector is being modernised. It is yet to be seen, though, if such investments would result in an increase in rail traffic in Turkey.