



Railway terminals in ports

Zagreb, 15/16 October 2015

Frank Jost

Transport



Which are the services regulated by railway law?



❖ Access to services under point 2 of Annex 2

- ❖ services provided in freight terminals,
- ❖ marshalling yards, shunting, train formation,
- ❖ storage sidings, maintenance, cleaning and washing facilities
- ❖ maritime and inland port facilities which are linked to rail activities,
- ❖ relief facilities,
- ❖ refuelling facilities.

Transport



Independence of the facility operators

[Art. 13(3) of Directive 2012/34/EU]

- independence required for a facility operator under control of railway undertaking that holds a dominant position in the national market for which the facility is used.

- applicable for all 'point 2 -services' except maintenance facilities, cleaning and washing facilities and relief facilities.

Transport



Independence requirements

- Organisational terms
- Decision-making
- Separate accounts including separate balance sheets and Profit & Loss accounts
- Regulatory body imposes the time limit on the infrastructure manager for answering requests for capacity

Transport



Viable alternative

- Economically acceptable condition

- Facility operator (not the applicant!) shall justify in writing the refusal and indicate the viable alternatives in other facilities (shift of burden of proof)

Transport



Conflicting requests

- terminal operator shall meet all requests as far as possible on the basis of demonstrated needs.
- applicant has the right of appeal to regulatory body against decision of the terminal operator.
- regulatory body shall take action to ensure that an appropriate part of the capacity is granted to that applicant.

Transport



Regulatory body and facility

- Right of appeal against decision of the facility operator [Art. 56 (1)].
- Decisions include access to the facility, access to the services in the facility and charging for access and these services.
- Power to audit separate accounts and request information [Art. 56 (12) with Annex VIII]
- RB shall inform national authority in charge of state aid.

Transport



The "use-it-or-lease-it" rule

- **Conditions:** Facility has not been in use for 2 consecutive years
- Railway undertakings have expressed interest on the basis of demonstrated needs
- *owner has to Publish the operation as being for lease or rent as a whole or in part, unless facility is in reconversion*

Transport



Network statement of the terminal operator

Contents: charges for access to facility and for the services provided in the facility
- access conditions

Publication: either all information provided in the network statement of the infrastructure manager or just a link to an own website of the terminal operator where this information is available.

Free of charge, at least in electronic format, in at least two official languages of the EU, has to be kept up to date

Publication no less than 4 months before the deadline for path requests

Transport