

ERAIL MONOGRAPH

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CONTENTS

	<u>page</u>
1	ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS..7
1.1	Current organisations7
1.1.1	RHK7
1.1.2	Ministry of Transport and Communication (MoTC)12
1.1.3	The Finnish Competition Authority13
1.2	Authorities required by the 2 nd railway package15
1.2.1	National Safety Authority15
1.2.2	Independent Investigation Body.....16
2	ORGANISATION OF PUBLIC TASKS 17
2.1	Separation, licensing, charging and safety17
2.1.1	Investigation of accidents (2001/12).....17
2.1.2	Safety certification of rolling stock and railway undertakings (2001/12).....17
2.1.3	Licensing of railway undertakings (2001/13)18
2.1.4	Track access (2001/12)19
2.1.5	Developing the capacity allocation framework (2001/14).....20
2.1.6	Publishing of capacity allocation framework (2001/14)22
2.1.7	Setting of infrastructure charges (2001/14).....23
2.1.8	Collection of infrastructure charges (2001/14)23
2.1.9	Publishing of charging framework (2001/14)24
2.1.10	Appeal to decisions related to charging and capacity allocation (2001/14).....24
2.2	Interoperability25
2.2.1	Drawing up Technical Specifications for Interoperability (TSIs) (96/48 and 2001/16, art. 5).....25
2.2.2	Appointing of Member State representative in the Advisory Committee (96/48 and 2001/16, art 21).....26
2.2.3	Regulation of interoperability (96/48 and 2001/16, art 8 and 20).....26
2.2.4	Authorisation of (sub)systems (96/48 and 2001/16, art 14).....27
2.2.5	Control on (sub/system) operation and maintenance in accordance with regulations (96/48 and 2001/16, art 14)27
2.2.6	Approval of Notified Bodies (96/48 and 2001/16, art. 20) please indicate which are the approved Notified Bodies and their relevant tasks28
2.2.7	Assessment/control of Notified Bodies (96/48 and 2001/16, art. 20).....29
2.2.8	Assessment of conformity and/or suitability of (sub)systems for use (96/48 and 2001/16, art 13).....30
2.3	State aid, competition and public service obligations31
2.3.1	Monitoring of competition (1017/68, 2001/12 and 01/2003).....31
2.3.2	Enforcing of competition (01/2003).....31
2.3.3	Complaint handling related to competition (01/2003)32
2.3.4	Evaluation of annual PSO claims (1191/69)32
2.4	Statistics33
2.4.1	Collection of financial data from railway undertakings (1192/69)33
2.4.2	Collection of financial data from infrastructure managers (1108/70).....33
2.4.3	National contribution to Community statistics on rail transport to Eurostat (91/2003).....34

3	TRAIN OPERATING COMPANIES.....	35
3.1	List of train operating companies.....	35
3.2	Safety license.....	35
3.3	Market shares/transport volumes.....	35
4	NGO'S	37
5	FURTHER FACTS AND STATISTICS	39
5.1	Complaint statistics and information.....	39
5.2	Railway accident statistics.....	40
6	GRAPHICAL OVERVIEW	41

GLOSSARY

Abbreviation	Finnish name (if applicable)	English name
ORGANISATIONS		
MoTC		Ministry of Transport and Communications
RHK	Ratahallintokeskus	Finnish Rail Administration
RNE		Rail Net Europe
LEGAL FRAMEWORK		
PSO		Public Service Obligation
NGO		Non Governmental Organisation

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1 ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS

Public tasks are distinguished according to the following clusters of activities:

- Separation, licensing, charging and safety
- Interoperability
- State aid, competition and public service obligations
- Statistics

The following organisations are involved in one or more of these clusters of activities:

- Ratahallintokeskus (RHK): The Finnish Rail Administration
- The Ministry of Transport and Communications (MoTC)
- The Finnish Competition Authority

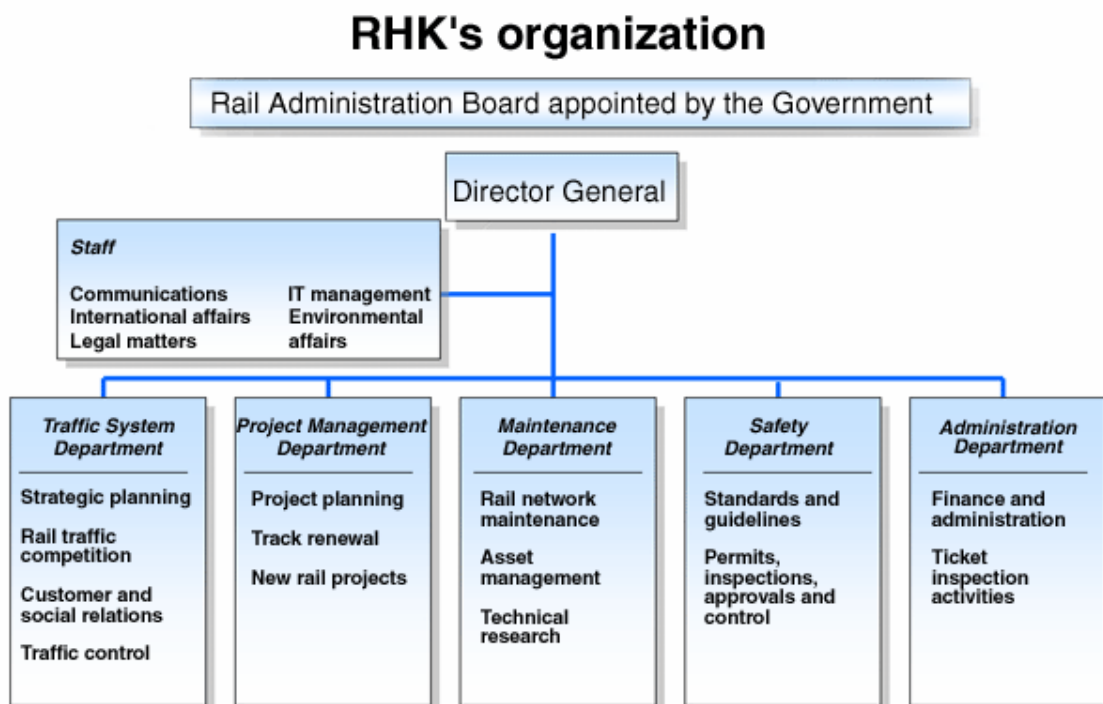
1.1 Current organisations

1.1.1 RHK

Ratahallintokeskus is the name of the Finnish Rail Administration (Infrastructure Manager).

Organisation chart

Figure 1 Organisation of RHK (updated 19.3.2003)



Source: www.rhk.fi

The Rail Administration Board is appointed by the Council of State and the members of the Board represent different interest groups, who are independent of the Government:

- Mr. Timo Poranen (Chairman), Managing Director, Finnish Forest Industries Federation
- Ms. Hannele Luukkainen, Chairman, Finnish Traffic Association
- Mr. Markku Pyy, Planning Manager, Finnish Rail Administration
- Mr. Veikko Vaikkinen, Director, Economy and Systems Department, VR Group Ltd.
- Ms. Kaisa Leena Välipirtti, Senior Advisor, Infrastructure, Ministry of Traffic and Communications.

The Board directs and supervises the Rail Administration's activities.

Income and expenses

€1,000	1.1.–31.12.2008		1.1.–31.12.2002	
OPERATIONAL INCOME				
Fees	46,974		55,004	
Rents and user charges	10,060		0,851	
Other operational income	12,468	69,502	8,200	79,154
OPERATIONAL EXPENSES				
Materials, supplies and goods	258		267	
Personnel expenses	6,225		5,590	
Rents	1,128		968	
Purchased services	182,448		178,532	
Other expenses	1,668		1,708	
Depreciation	284,323	426,080	227,270	414,353
DEFICIT I		- 356,578		- 341,100
FINANCIAL INCOME AND EXPENSES				
Financial income	23		40	
Financial expenses	- 31	- 8	- 65	- 15
EXTRAORDINARY INCOME AND EXPENSES				
Extraordinary income	12,085		778	
Extraordinary expenses	- 3,364	8,671	- 3,447	- 2,660
DEFICIT II		- 347,915		- 349,888
INCOME FROM TAXES AND OTHER COMPULSORY CHARGES				
Taxes and compulsory charges	12,583			
VAT received	3,292		1,517	
VAT paid	- 100,346	- 84,471	- 88,047	- 87,430
DEFICIT FOR THE YEAR		- 432,386		- 431,313

See for more detailed information, the annual report 2003 of RHK:

www.rhk.fi/english/index.htm

About 15 per cent of RHK's costs are covered by infrastructure charges (which are based on marginal costs); the remainder is funded directly by the government.

Number of employees

RHK has around 85 employees in the office and 41 persons employed for ticket control.

Staff: 7

Traffic System Department: 10

Project Management Department: 24

Maintenance Department: 20

Safety Department: 15

Administration Department: 13

Legal constitution

The official start-up of RHK was on the 1st of July 1995. RHK is a civil service department subordinate to the Ministry of Transport and Communications.

Clients

The main clients of the infrastructure manager are the railway operators (only one in Finland, namely VR, see paragraph 3.1). There is also a link with the passengers as RHK is responsible for the passenger information systems.

Contact details for clients

- Finnish Rail Administration
- P.O. Box 185 (Kaivokatu 6)
- FIN – 00101 Helsinki
- Tel: +358.9.5840.5111
- Fax: +358.9.5840.5100
- Internet: www.rhk.fi
- Email: info@rhk.fi

Table 1 *Contact information RHK*

One Stop Shop (see below) contact Person	Timo Välke	Tel: +358-9.5840.5160 E-mail: timo.valke@rhk.fi
Safety certificate	Pentti Haapala	Tel: +358-9.5840.5151 E-mail: pentti.haapala@rhk.fi
General principles and policies	Anne Herneoja	Tel: +358-9.5840.5106 E-mail: anne.herneoja@rhk.fi
Capacity requests	Miika Mäkitalo	Tel: +358-9.5840.5026 E-mail: miika.makitalo@rhk.fi
Infrastructure investments	Kari Ruohonen	Tel: +358-9.5840.5131 E-mail: kari.ruohonen@rhk.fi

Infrastructure condition and maintenance	Markku Nummelin	Tel: +358-9.5840.5180 E-mail: markku.nummelin@rhk.fi
Development of the Network Statement	Miika Mäkitalo	Tel: +358-9.5840.5026 E-mail: miika.makitola@rhk.fi
Legal matters	Rami Metsäpelto	Tel: +358-9.5840.5158 E-mail: rami.metsapelto@rhk.fi
Co-ordination of track work and traffic	Jukka Salonen	Tel: +358-9.5840.5145 E-mail: jukka.salonen@rhk.fi

Source: Network Statement 2005

One Stop Shop (OSS) Activities

Several European Infrastructure Managers have signed an agreement on a common sales and marketing organisation for international infrastructure capacity called RNE – RailNetEurope.

The members of RNE are:

- Banestyrelsen (Denmark);
- Banverket (Sweden);
- BLS Lötschbergbahn AG (Switzerland);
- DB Netz AG (Germany);
- Győr-Sopron-Ebenfurti Vasút Rt. / Raab-Oedenburg-Ebenfurter Eisenbahn AG (Hungary/Austria);
- Jernbaneverket (Norway);
- Network Rail (former Railtrack PLC: UK);
- Österreichische Bundesbahnen (Austria);
- ProRail (former Railned BV: Netherlands);
- Ratahallintokeskus (Finland);
- Red Nacional de los Ferrocarriles Españoles (Spain);
- Rede Ferroviária Nacional, E.P. (Portugal);
- Réseau Ferré de France & Société Nationale des Chemins de fer Français (France);
- Rete Ferroviaria Italiana SpA (Italy);
- Schweizerische Bundesbahnen / Chemins de Fer Fédéraux suisses / Ferrovie Federali Svizzere (Switzerland);
- Société Nationale des Chemins de fer Belges / Nationale Maatschappij der Belgische Spoorwegen (Belgium);
- Société Nationale des Chemins de fer Luxembourgeois (Luxembourg);
- Železnice Slovenskej republiky (Slovakia).

These Infrastructure Managers have set up One Stop Shops working as a network of single customer contact points within the framework of RNE. For international path requests, the Railway Undertaking needs only to contact one of these One Stop Shops, which will co-ordinate the whole international path allocation process.

The contact One Stop Shop will:

- Offer customer attention and information on the full product and service range of the Infrastructure Managers;
- Supply all the information required to gain access to and use the infrastructure of any Infrastructure Manager participating in RNE-RailNetEurope;
- Handle requests for any international train path within RNE-RailNetEurope;
- Make sure that requests for the next timetable period are duly taken into account in the yearly Forum Train Europe timetabling process;
- Provide train path offers for the whole international journey;
- Finalise the access contracts;
- Give assistance to the customer in the billing and payment procedure.

Autonomy of organisation

As stated above, RHK is subordinate to the Ministry of Transport and Communications.

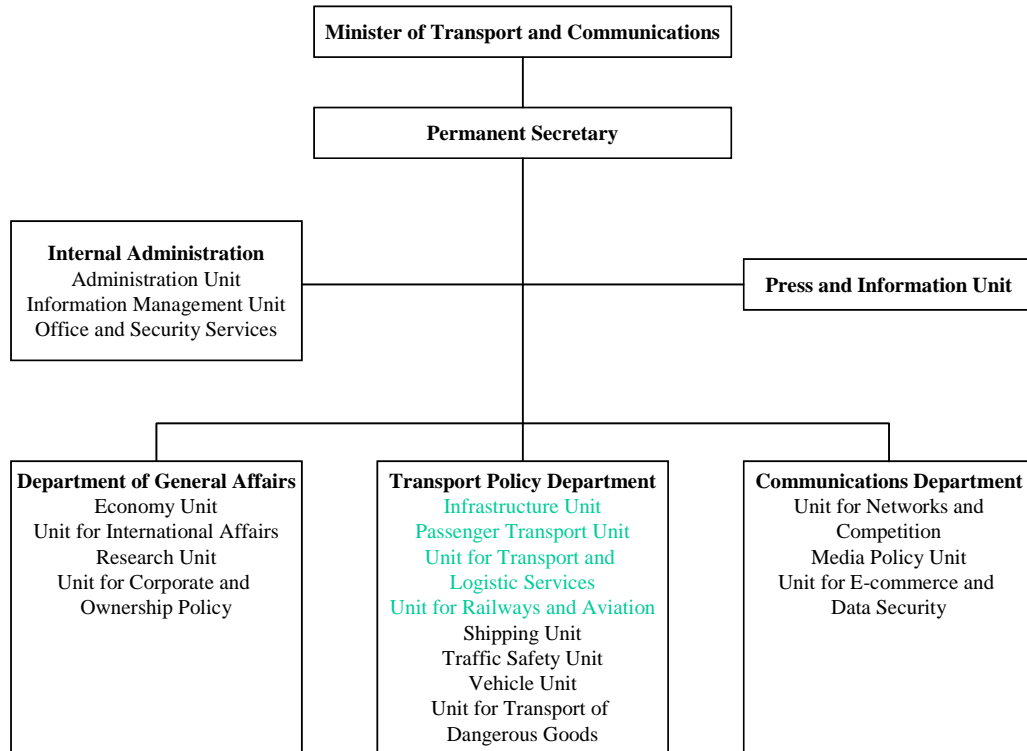
RHK operates on the net budgeting principle: funds for infrastructure management and operating costs are received through the state budget and other forms of financing (such as charges for the use of the rail network and rental income).

The Rail Administration Board directs and supervises RHK's activities. It decides on RHK's general operating lines, services and operational objectives, operational and financial plans, budget, the general arrangement of technical inspection, service pricing principles, the establishing and abolishing of permanent posts and the approval of collective bargaining agreements. It also approves significant plans concerning construction and maintenance of the rail network and traffic control and makes proposals concerning transport policy in the rail sector. The Rail Administration Board met eleven times during 2002.

1.1.2 Ministry of Transport and Communication (MoTC)

Organisation chart

Figure 2 Organisation chart MoTC



Source: www.mintc.fi

Railway issues are dealt with in several units of MoTC. The Unit for Railways and Aviation is mainly responsible for rail transport policy issues (including legislation = regulator). Infrastructure issues are handled in the Infrastructure Unit and passenger transport issues (public service obligations) in the Passenger Transport Unit. Freight transport issues are handled in the Unit for transport and logistic services.

Income and expenses

According to the State Budget of 2003, expenses are EUR: 14 million

Number of employees

In total there are about 160 - 170 civil servants working at the MoTC.

There are only 2-3 experts in the Railway and Aviation Unit dealing directly with rail transport issues.

Legal constitution

State administration

Clients

In the context of the railway acquis, the main clients of the MoTC are the railway operators. The MoTC grants operating licences and is the appeal body for decisions related to charging and capacity allocation. The MoTC is also responsible for approval, assessment and control of Notified Bodies.

Contact details for clients

General

- Ministry of Transport and Communications
- P.O. Box 31 (Eteläesplanadi 16-18)
- FIN-00023 Valtioneuvosto (Helsinki)
- Tel: +358-9.160.02
- Fax: +358-9.160.28596
- E-mail: kirjaamo@mintc.fi
- Internet: <http://www.mintc.fi>

Unit for railways and aviation

- Director: Lampinen Reino
- Tel: +358.9.160.28639

Autonomy of organisation

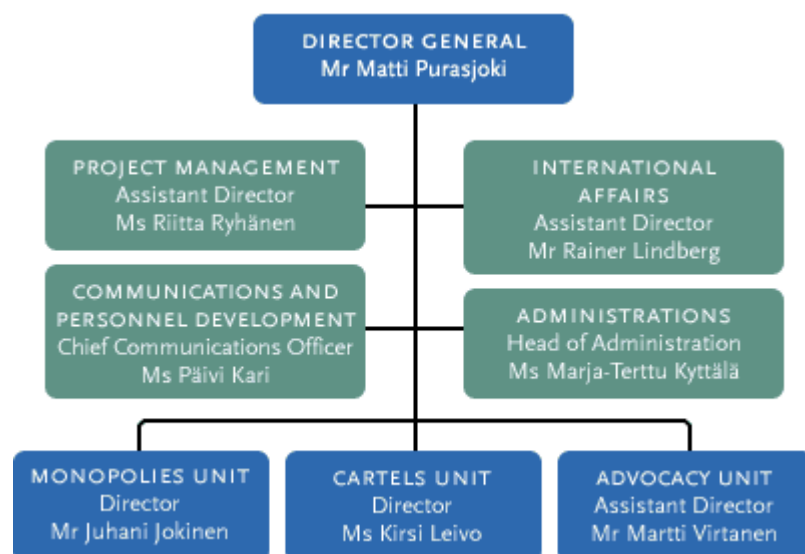
Under direct order of the Minister of Transport and Communication.

1.1.3 The Finnish Competition Authority

The full name of the Finnish Competition Authority is Kilpailuvirasto

Organisation chart

Figure 3 *Organisational structure Finnish Competition Authority as from 1 October 2002*



Source: www.kilpailuvirasto.fi

Income and expenses

Year	Budget expenditure (euros)
2003	4.511.000
2002	4.571.000
2001	3.974.449
2000	3.596.000
1999	3.363.000
1998	2.949.000

Number of employees

Year	Employees
2003	67
2002	67
2001	66
2000	62
1999	61
1998	57

Legal constitution

Founded in 1988, the Finnish Competition Authority operates under the Ministry of Trade and Industry.

Clients

The clients of the Finnish Competition Authority are any company within the railway sector, users of rail (passengers and freight) and the general public.

Contact details for clients

- Pitkäsillanranta 3, P.O.B. 332,
- FIN-00531 Helsinki
- Tel: +358- 9. 731. 41
- Fax: +358- 9. 7314. 3328
- E-mail: kirjaamo@kilpailuvirasto.fi

NB. All personal e-mail addresses are of the type: `firstname.surname@kilpailuvirasto.fi` (no umlaut)

Autonomy of organisation

The Competition Authority gets instructions of the Ministry of Trade and Industry

1.2 Authorities required by the 2nd railway package

1.2.1 National Safety Authority

The Ministry of Transport and Communications set up a working group in June 2003 to clarify the need for changes in the organisation of the rail industry to comply with the EU's draft Second Package of Railway reforms.

The second railway package of the EU contains a requirement to establish a safety authority responsible for national railway safety. The working group has reported in April 2004 on the possible establishment of a new Railway Authority. The working group proposes that in addition to the safety related tasks referred to in the Railway Safety Directive certain other essential administrative tasks of the railway sector now dealt with by the Ministry of Transport and Communications or the Finnish Rail Administration (RHK) should be given to a new Railway Authority. RHK would continue to take care of the development and maintenance of the national railway network as well as of the infrastructure capacity allocation. The Ministry of Transport and Communications would continue to act as the highest authority of the railway sector and would be responsible for railway policy and legislation.

The new railway authority would act as a state authority under the Ministry of Transport and Communications and would be independent from the infrastructure manager (RHK) and the railway undertakings in its decision-making. The Ministry also set up a conciliator with the task

to assess in detail the resources and appropriation requirements of the new railway authority. This assessment was finished in September 2004. The new Safety Authority will be the safety authority mentioned in directive 2004/49 and will be responsible for the tasks mentioned in art. 16. Some (regulatory) tasks will be transferred from the MoTC and RHK to this new authority. This national safety authority will probably be established as from 1 September 2006.

1.2.2 Independent Investigation Body

There has been an independent investigating body in Finland since 1996, the Accident Investigation Board within the Ministry of Justice.

2 ORGANISATION OF PUBLIC TASKS

2.1 Separation, licensing, charging and safety

2.1.1 Investigation of accidents (2001/12)

Responsible organisation

Accident Investigation Board (AIB). The AIB is located within the Ministry of Justice. The Board has 10 employees of which two people are working on the investigation of railway accidents.

Objectives, tasks and responsibilities

The AIB investigates all major accidents (rail, aviation, maritime) and incidents. The purpose of the investigation of accidents is to improve safety and to prevent future accidents.

Procedure

The flow of events during the accident, its causes and results as well as the rescue operation are dealt with in the investigation. A report is prepared on the results of the investigation. The report also presents the recommendations, which are based on the conclusions of the investigation.

Legal basis of procedure

The provisions of the Act on the Investigation of Accidents (373/1989) apply to the investigation of accidents and danger situations in railway traffic and the Railway Act 198/2003 §32

2.1.2 Safety certification of rolling stock and railway undertakings (2001/12)

Responsible organisation

The national safety authority issues the safety certificate, which in Finland is RHK.

Objectives, tasks and responsibilities

RHK is in charge of ensuring the safety of rail transport on the state-owned railways. RHK also supervises the safety of railway traffic on private sidings.

Procedure

A safety certificate is issued for a period of not more than five years.

The safety certificate shall contain information on the applicant's safety management system, the qualifications of its personnel¹, as well as on its rolling stock and its servicing and maintenance system. If the safety certificate is issued in another state belonging to the European Economic Area, RHK may require the railway undertaking concerned to give additional details of the intended rail services. RHK shall take a decision on the issuance or approval of the operating licence within four months after the request has been filed to it.

Legal basis of procedure

§11 of the Railway Act (198/2003)

2.1.3 Licensing of railway undertakings (2001/13)

Responsible organisation

Ministry of Transport and Communications

Objectives, tasks and responsibilities

The Ministry of Transport and Communications issues an operating licence for the operation of rail traffic to applicants established in Finland².

Procedure

The Ministry issues an operating licence for the operation of railway traffic to an applicant established in Finland, provided that:

- 1) the applicant intends to operate, as its main business, railway traffic with the rolling stock in its possession or to provide traction services;
- 2) the applicant has a safety certificate, issued or approved by the Rail Traffic Administration, or gives a corresponding explanation of its activities;
- 3) the applicant is reliable and the persons in charge of its management are of good repute and professionally competent;
- 4) judging from the facts that are known, the applicant is financially sufficiently fit to be able to meet its actual and potential obligations and commitments for a period of not less than one year;
- 5) the applicant has adequate liability insurance or has made equivalent arrangements.

The Ministry reviews the operating licence and its conditions every five years. An operation licence issued in one state belonging to the European Economic Area is valid throughout the territory of the European Economic Area.

¹ Before RHK issues or approves a safety certificate, the railway operator shall provide RHK with information on the qualifications of its staff whose work is connected with traffic safety. After receiving this information, RHK may examine in more detail whether a person or a group of persons meets the necessary qualification requirement.

² Any statements on licensing are largely theoretical, as VR Ltd. is the only entity that has been awarded a licence in Finland.

Legal basis of procedure

§5 of the Railway Act and regulation 206/2003.

2.1.4 Track access (2001/12)

Responsible organisation

RHK

Objectives, tasks and responsibilities

Capacity for operating regular train services on the state-owned rail network in accordance with the Train Safety Regulations shall be requested from RHK for each timetable period.

Procedure

The following railway undertakings and international groupings of railway undertakings may use the state-owned rail network for providing the rail services specified below:

- 1) Railway undertakings and international groupings of railway undertakings referred to in §2(1) of the Railway Act for providing services in international rail traffic between states belonging to the European Economic Area;
- 2) Rail transport operating subsidiary of the limited company referred to in §1 of the Act on the Incorporation of the Finnish State Railways (20/1995) for providing services in domestic freight and passenger traffic, as well as in traffic between Finland and Russia.

These railway undertakings and international groupings of railway undertakings may use the rail network in accordance with Chapter 4 of the Railway Act and the traffic operating points on the state-owned rail network for their traffic operating on separately agreed conditions (access contract).

Other undertakings or associations, too, may use individual traffic operating points on the rail network for their rail services, provided that this traffic serves a private siding connected to a traffic operating point and that an agreement on traffic operation has been made with RHK.

Operation of rail traffic on the state-owned rail network also requires that the railway undertaking fulfil the following conditions:

- 1) Railway undertaking shall have an operating licence in accordance with §5 of the Railway Act or a corresponding operating licence issued in the European Economic Area.
- 2) The licence holder shall have a safety certificate in accordance with §11 of the Railway Act, issued or approved by RHK.
- 3) The licence holder shall make an agreement with RHK on the use of traffic control services on the details of how safety matters shall be organised, on the use of marshalling yards, storage sidings and other track, as well as on other necessary practical arrangements;
- 4) Capacity in accordance with Chapter 4 of the Railway Act has been allocated to the railway undertaking for its traffic;

- 5) Other conditions for operating rail traffic, laid down in or under the Railway Act and the Act on the Interoperability of the Trans-European Rail System, are in all respects fulfilled.

Legal basis of procedure

The legal framework of access to infrastructure is described in Chapter 2 of the Railway Act (198/2003) and in the Act on the Interoperability of the Trans-European Rail System (561/2002) as amended by Act (200/2003).

2.1.5 Developing the capacity allocation framework (2001/14)

Responsible organisation

RHK. Within RHK, the Traffic System Department is responsible for developing and publishing the Network Statement.

Objectives, tasks and responsibilities

RHK is responsible for developing the capacity allocation framework.

Procedure

If there are several applicants for the same capacity or the requested capacity has effects on the capacity requested by another applicant, RHK attempt to co-ordinate the requests between the applicants. In such cases, RHK may offer the applicants capacity that does not essentially differ from the capacity they requested. If the co-ordination of the requests between the applicants does not lead to a satisfactory result, RHK decides on the priority order in each individual case on the grounds laid down in the Railway Act. RHK shall decide on an individual priority order no later than ten days after the co-ordination process has ended.

RHK declares an element of infrastructure or a part of it to be congested infrastructure if the co-ordination of several requests for the same infrastructure has not led to a satisfactory result. RHK may also designate an element of infrastructure as congested if it is evident that it will become congested during the timetable period.

If there are several applications for the same infrastructure, the priority order is as presented in the following table.

Table 3 *Priority order on congested infrastructure*

Priority	Traffic
1.	Synergic passenger traffic entity ³
2a.	Express train traffic
2b.	Transport for the processing industry ⁴
3a.	Local and other passenger traffic
3b.	Other regular freight traffic
4.	Freight traffic not requiring strict transport times
5.	Other traffic ⁵

Source: Network statement 2004, RHK

RHK may (by a separate decision) make a derogation from the general priority order laid down in the Railway Act and the Network Statement in favour of an applicant operating international traffic or traffic that improves the functioning of the rail transport system or public transport. The same applies to cases where the rejection of the applicant would cause unreasonable harm to applicants, railway undertakings, and international groupings of railway undertakings or to the business activities of their customer.

Based on the applications, RHK draws up the draft working timetable for the next timetable period no later than four months after the deadline for the submission of applications for capacity. The draft working timetable contains information on the capacity that RHK proposes to allocate to an applicant only to such extent and with such restrictions as is necessary for implementing traffic control for the use of this capacity.

The draft working timetable is primarily based on the assumption that the requested capacity will be allocated, provided that the different train paths enable railway traffic to be operated in accordance with the technical and safety requirements. In order to improve the use of infrastructure capacity, RHK may, however, offer applicants capacity that does not essentially differ from the capacity they have requested. RHK may also decide not to allocate capacity, provided that reserve capacity is needed for the timetable period.

RHK sends the draft working timetable to applicants for information within the prescribed period of time and gives them the opportunity to comment. Comments shall be presented within 30 days after receipt of the draft working timetable. Customers purchasing freight transport services and associations representing purchasers of rail transport services also have the right to present comments on the draft working timetable within 30 days from the date on which RHK

³ The term 'synergic passenger traffic entity' refers in passenger traffic to trains forming a transport system producing clear added value for customers. A system of this kind is e.g. traffic operated according to the basic interval timetable.

⁴ This term mainly refers to transport whose immediate place of destination or origin is a port or a private siding. This group includes combined transport, transport for the wood-processing industry and transport to ports.

⁵ E.g. traffic connected with track work.

publishes an announcement in its collection of regulations that the draft working timetable has been established.

Based on the draft working timetable and the comments presented by the parties involved, RHK shall decide on the allocation of infrastructure capacity on a fair and non-discriminatory basis.

Applicants for capacity may request capacity from RHK regardless of the prescribed period of time if they urgently need capacity for one or more provisional train paths. In such cases, RHK takes a decision on the request within five days after its submission.

RHK allocates the requested ad hoc capacity if there is sufficient capacity. Unless otherwise provided in the Railway Act, the ad hoc capacity is allocated on a first-come-first-served basis.

Legal basis of procedure

The legal framework of capacity allocation is described in Chapter 4 of the Railway Act (198/2003) and in the Government decree on the timetable period in rail traffic and the application for infrastructure capacity (207/2003).

2.1.6 Publishing of capacity allocation framework (2001/14)

Responsible organisation

RHK is responsible for publishing the network statement. Within the Finnish Rail Administration, the Network Statement is the responsibility of the Traffic System Department.

Objectives, tasks and responsibilities

The Network Statement is published for the use of applicants for capacity for each timetable period. It can be found on the website of RHK:

<http://www.rhk.fi/english/index.html>

The Network Statement provides a single source for the information that will be required by a train operator wishing to operate train services on the rail network.

Procedure

Railway undertakings can request capacity for international traffic within the European Economic Area. Domestic traffic can be operated only by VR Limited (State Railway Company). The Network Statement describes in detail the general rules, deadlines, procedures and grounds applicable to the charging and capacity allocation systems.

The Network Statement is valid for one timetable period and is published 12 months ahead of the timetable period.

Legal basis of procedure

The Network Statement is published in accordance with Directive 2001/14/EC of the European Parliament and the Council on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (implemented into Finnish law through the Railway Act 198/2003).

2.1.7 Setting of infrastructure charges (2001/14)

Responsible organisation

Ministry of Transport and Communications

Objectives, tasks and responsibilities

Infrastructure charges are mainly set up by a decree of MoTC and partly by a separate law.

Procedure

As of 1st of January 2004, the infrastructure charge consists of the charges mentioned in Table 2.

Table 2 *Infrastructure charge; Source: Network Statement 2005, RHK*

Basic charge	Freight traffic: 0,1227 cent/gross tonne-kilometre Passenger traffic: 0,1189 cent/gross tonne-kilometre
Infrastructure tax	Freight traffic: - electric: 0.05 cent/gross tonne-kilometre - diesel: 0.1 cent/gross tonne-kilometre Passenger traffic: 0,01 cent/gross tonne-kilometre

The basic infrastructure charge shall always be based on the costs directly caused by the operation of railway traffic. The infrastructure tax consists of a charge for external costs and a supplementary charge in accordance with the Capacity and Infrastructure Charge Directive (2001/14/EC). In the charge for external costs, the environmental effects caused by the operation of rail traffic can be taken into account. A supplementary charge can be collected for covering the full amount of the costs caused by the use of the infrastructure.

Legal basis of procedure

The legal framework of the infrastructure tax is described in Track Tax Act 605/2003. The responsible ministry is the Ministry of Finance.

2.1.8 Collection of infrastructure charges (2001/14)

Responsible organisation

RHK

Objectives, tasks and responsibilities

RHK is responsible for collecting the infrastructure charges from train operators

Procedure

RHK shall collect a basic infrastructure charge from railway operators on a fair and non-discriminatory basis for the minimum access package and track access to service facilities, calculated on the basis of the actual level of use.

RHK invoices the infrastructure charge each calendar month on the basis of the realised performances of the previous month. For invoicing, railway operators shall provide RHK with information on the rail services operated by them.

Legal basis of procedure

The legal framework of the basic infrastructure charge is described in Chapter 3 of the Railway Act (198/2003).

2.1.9 Publishing of charging framework (2001/14)

Responsible organisation

RHK

Objectives, tasks and responsibilities

RHK publishes the charging framework for railway companies, other interested parties and the general public.

Procedure

The charging framework is published at the website of RHK:

<http://www.rhk.fi/english/index.html>

Legal basis of procedure

The Network Statement is published in accordance with Directive 2001/14/EC of the European Parliament and the Council on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (implemented in Finnish law through the Railway Act 198/2003).

2.1.10 Appeal to decisions related to charging and capacity allocation (2001/14)

Responsible organisation

The Ministry of Transport and Communications

Objectives, tasks and responsibilities

The appeal body for decisions related to charging and capacity allocation is the Ministry of Transport and Communications.

Procedure

A decision taken by RHK may be appealed against by filing a claim for rectification to the regulatory body, which in Finland is the Ministry of Transport and Communications. A claim for rectification may be filed if the decision taken by RHK concerns⁶:

- 1) priority order for allocating capacity in individual cases;
- 2) levying of the infrastructure charge;
- 3) capacity allocation;
- 4) allocation of urgently needed capacity;
- 5) issuance of a safety certificate;
- 6) the access contract.

The claim for rectification shall be filed to the Ministry of Transport and Communications within 30 days of the date of receipt of notice of the decision. The Ministry shall decide on the claim for rectification within two months of the date on which all relevant information for taking a decision has been delivered to it. The decision shall, however, be taken within ten days of the date on which all relevant information has been delivered if the claim concerns the priority order in individual cases, capacity allocation or a request for urgently needed capacity.

Legal basis of procedure

A decision taken by RHK may be appealed against under § 43 of the Railway Act.

2.2 Interoperability

2.2.1 Drawing up Technical Specifications for Interoperability (TSIs) (96/48 and 2001/16, art. 5)

Responsible organisation

AEIF is the joint representative body mandated by the EU Commission to lay down the Technical Specifications for Interoperability (TSIs).

AEIF brings together representatives of the infrastructure managers, railway companies and industry. It is co-founded by UIC, UNIFE and UITP and is supported by the European Commission.

⁶ Source: Network Statement 2004

Objectives, tasks and responsibilities

During the last four years AEIF was engaged in the development of the TSIs required by the Directive 96/48 (Interoperability of the Trans-European high speed railway system). AEIF has also been entrusted with the task of setting up the TSIs for conventional rail according to the approved Directive on Interoperability of Conventional Rail.

Procedure

The technical specifications for interoperability (TSI's) for the several railway sub-systems of the High-Speed railway network can be found on www.aeif.org. (they are also published in the Official Journal of the European Union L245, Volume 45, 12 September 2002, p. 1 – 506).

Legal basis of procedure

Directives 96/48 and 2001/16

Act on Interoperability of the Trans-European rail system (561/2002)

2.2.2 Appointing of Member State representative in the Advisory Committee (96/48 and 2001/16, art 21)

Responsible organisation

RHK

Objectives, tasks and responsibilities

The Advisory Committee shall assist the Commission concerning the implementation of the two Directives and the achievement of interoperability of the rail system. The Committee is composed of the representatives of the Member States and chaired by the representative of the Commission. The MoTC has nominated a civil servant of RHK as a representative of the Committee.

Procedure

Not available

Legal basis of procedure

Directives 96/48 and 2001/16

2.2.3 Regulation of interoperability (96/48 and 2001/16, art 8 and 20)

Responsible organisation

RHK

Objectives, tasks and responsibilities

The MoTC is the railway regulator, but RHK is the competent authority in interoperability issues at present. This will change when the new railway authority (National Safety Authority) will be established.

Procedure

Not available

Legal basis of procedure

Interoperability Act (561/2002)

2.2.4 Authorisation of (sub)systems (96/48 and 2001/16, art 14)

Responsible organisation

RHK

Objectives, tasks and responsibilities

For putting a subsystem into service on the state-owned rail network, an authorisation is required from the Finnish Rail Administration.

Procedure

If the subsystem is upgraded or renewed after the authorisation has been granted, the Finnish Rail Administration shall be notified thereof. If the subsystem has been essentially upgraded or renewed, a new application for authorisation shall be submitted to the Finnish Rail Administration before putting the subsystem again into service.

Legal basis of procedure

Interoperability Act (561/2002)

2.2.5 Control on (sub/system) operation and maintenance in accordance with regulations (96/48 and 2001/16, art 14)

Responsible organisation

RHK

Objectives, tasks and responsibilities

The structure of market supervision is at present under consideration and will be changed when the new Railway Authority will be set up. Currently, the Finnish Rail Administration is still the Market Supervision Authority.

Procedure

The Market Supervision Authority is entitled to obtain any information necessary for the performance of its supervision function from the Notified Bodies, manufacturers of subsystems and interoperability constituents, their representatives, the persons placing subsystems and interoperability constituents on the market, offer them for sale, sell or otherwise surrender them, as well as from the persons putting subsystems or interoperability constituents into service or using them.

If a subsystem or an interoperability constituent fails to meet the requirements, the Market Supervision Authority shall require the involved parties to take measures to render the subsystem or interoperability constituent conforming the requirements. The Market Supervision Authority can also restrict the use of the subsystem or interoperability constituent or remove it from the market.

Legal basis of procedure

Interoperability Act 561/2002

2.2.6 Approval of Notified Bodies (96/48 and 2001/16, art. 20) please indicate which are the approved Notified Bodies and their relevant tasks

Responsible organisation

The Finnish Ministry of Transport and Communication is responsible for appointing Notified Bodies.

Initially, the Finnish Railway Administration, Ratahallintokeskus (RHK), is the only Notified body in Finland. However, when reading annex VII of Directive 96/48/EC, the current RHK could not be notified because it does not fulfil the requirements stated in the Annex VII, paragraph 1. The MoTC has appointed Det Norske Veritas (DNV) as a new NB in Finland. The appointment has been notified to the Commission in June 2004. DNV has already started its work as a NB.

The tasks of the Notified Body have been regulated in the Interoperability Act (561/2002)

Tasks of the Notified Body (section 8):

- The Notified Body shall carry out EC verifications to assess the conformity of the Subsystems and issue Conformity Certificates as a result of the verifications. Further provisions concerning the practice adopted in the performance of the EC verifications and the issuance of the Conformity Certificates referred to in Annexes V and VI to the Conventional Interoperability Directive and Annexes V and VI to the High-Speed Inteoperability Directive will be given by Government decree.
- The Notified Body shall carry out assessments of conformity and suitability for use for Interoperability Constituents and issue corresponding Conformity and Verification

Certificates. Further provisions concerning the assessment practice and the issuance of the certificates referred to in Annex IV to the Conventional Interoperability Directive and Annex IV to the High-Speed Interoperability Directive will be given by Government decree.

- The Notified Body may subcontract operations connected with the performance of its tasks referred to in this section, provided that the subcontractor meets the conditions for appointing the Notified Body defined in section 7(1) and performs its tasks in conformity with the requirements laid down in or under this Act. The Notified Body is responsible for the operations subcontracted by it.

Objectives, tasks and responsibilities

See above

Procedure

The body to be appointed shall meet the following conditions (see Interoperability act 561/2003):

1. The Body shall be an authority or a legal person registered in Finland;
2. The Body shall be reliable, as well as operationally, commercially and financially independent of the parties to the Rail System market;
3. The Body shall be protected by a third party liability insurance or other corresponding arrangements sufficient to cover its scope of activities;
4. The Body shall have at its disposal a sufficient number of qualified employees, as well as the systems, equipment and tools required for its activities.

Legal basis of procedure

Interoperability Act (561/2002)

2.2.7 Assessment/control of Notified Bodies (96/48 and 2001/16, art. 20)

Responsible organisation

The Ministry of Transport and Communications

Objectives, tasks and responsibilities

The Ministry of Transport and Communications is responsible for the supervision of the Notified body.

Procedure

The Ministry is entitled to obtain any information necessary for the performance of its supervising function concerning the administration and finances of the Body, the technical qualifications of its staff, the assessments carried out by the Body as well as the Conformity Certificates and Verification Certificates issued by the Body. The Notified Body shall notify the

Ministry of such changes in its activities as may have an effect on the conditions of its functioning as the Body.

If the Notified Body fails to meet the requirements laid down in Annex VII of the Conventional Interoperability Directive or in Annex VII of the High-Speed Interoperability Directive, or if it acts in serious contradiction to the provisions of the Interoperability Act (561/2003) or the Directives referred to, the Ministry is entitled to withdraw the appointment of the Notified Body entirely or for a specific period of time.

Legal basis of procedure

Directives 96/48 and 2001/16
Interoperability Act 561/2002

2.2.8 Assessment of conformity and/or suitability of (sub)systems for use (96/48 and 2001/16, art 13)

Responsible organisation

RHK (at the end of May 2004 a new Notified Body will be appointed by the Ministry of Transport and Communications).

Objectives, tasks and responsibilities

The Notified Body shall carry out assessments of conformity and suitability for use for Interoperability Constituents and issue corresponding Conformity and Verification Certificates.

Procedure

Further provisions concerning the assessment practice and the issuance of the certificates referred to in Annex IV of the Conventional Interoperability Directive and Annex IV of the High Speed Interoperability Directive are given by Government decree 765/2002 (entered into force in September 2002).

A decision on a Conformity or Verification Certificate taken by the Notified Body cannot be appealed against. A claim for rectification of a decision taken by the Notified Body can be submitted to the Finnish Rail Administration within 30 days from the date of receipt of the Conformity or Verification Certificate.

Legal basis of procedure

Directives 96/48 and 2001/16
Interoperability Act 561/2002
Government Decree 765/2002

2.3 State aid, competition and public service obligations

2.3.1 Monitoring of competition (1017/68, 2001/12 and 01/2003)

Responsible organisation

Competition issues are dealt with by the Finnish Competition Authority (Kilpailuvirasto) According to the new Railway Act (198/2003) MoTC is the Regulatory Body. As a Regulatory Body the MoTC is responsible for certain competition issues.

Objectives, tasks and responsibilities

Its objective is to protect sound and effective economic competition and to increase economic efficiency by promoting competition and abolishing competition restraints.

Procedure

The procedure is set out in the Finnish Act on Competition Restrictions (No 318/2004) and can be found on www.kilpailuvirasto.fi

Legal basis of procedure

The Finnish Competition Authority is founded in 1988 and operates under the Ministry of Trade and Industry.

The Finnish Act on Competition Restrictions (Act 318/2004) forms the legal basis of the activities of the Finnish Competition Authority.

2.3.2 Enforcing of competition (01/2003)

Responsible organisation

The Finnish Competition Authority

Objectives, tasks and responsibilities

See 2.3.1

Procedure

See 2.3.1

Legal basis of procedure

See 2.3.1

2.3.3 Complaint handling related to competition (01/2003)

Responsible organisation

The Finnish Competition Authority

Objectives, tasks and responsibilities

See 2.3.1

Procedure

See 2.3.1

Legal basis of procedure

See 2.3.1

2.3.4 Evaluation of annual PSO claims (1191/69)

Responsible organisation

The Passenger Transport Unit of the MoTC.

Objectives, tasks and responsibilities

The Passenger Transport Unit of the MINTC is responsible for the evaluation of annual PSO claims. The decisions of the MINTC could be appealed to the Supreme Administrative Court.

Procedure

See questions below

Legal basis of procedure

Not available

- What kind of PSO's are concluded for Railway Passenger Transport?
VR receives public budget contributions from the national government for unprofitable long-distance services. Helsinki regional passenger services are contracted to VR by the Helsinki Metropolitan Area Council.
- Is a distinction made between long distance and regional/urban transport?
No official distinction between long distance and urban transport
- Who are the contracting authorities?
Ministry of Transport and Communication (for the traffic bought by the state)
Helsinki Metropolitan Area Council (Helsinki regional passenger services)

- What is the total contracting sum?
Traffic bought by the state 37 million euros (2004)
Traffic bought by Helsinki Metropolitan Area Council 47 million euros (2004)
- What is the length of the contract?
From one to five years
- Are the PSO awarded via public procurement procedures?
Yes (anything else would be illegal)
- What percentage of the market is covered via PSO's?
About 25 % of the rail passenger market

2.4 Statistics

2.4.1 Collection of financial data from railway undertakings (1192/69)

Responsible organisation

The Ownership Policy Unit of MoTC.

Objectives, tasks and responsibilities

The Ownership Policy Unit of MoTC is responsible for supervising the function of the state owned railway company (VR Ltd). MoTC collects financial data also as a licensing body and as a PSO body.

Procedure

Statistical information on the rail network and rail traffic is published in the Finnish Railway Statistics yearly.

Legal basis of procedure

Directive 1192/69

2.4.2 Collection of financial data from infrastructure managers (1108/70)

Responsible organisation

MoTC

Objectives, tasks and responsibilities

MoTC collects data from RHK while supervising the function of RHK.

Procedure

Not available

Legal basis of procedure

Directive 1108/70

2.4.3 National contribution to Community statistics on rail transport to Eurostat (91/2003)

Responsible organisation

RHK

Objectives, tasks and responsibilities

RHK is responsible for national contribution to Community statistics on rail transport.

Procedure

Not available

Legal basis of procedure

Directive 91/2003

3 TRAIN OPERATING COMPANIES

3.1 List of train operating companies

VR is the only licensed operator on the network⁷ VR Ltd has been granted a new license with validity from 15-3-2004. This license has been notified to the Commission.

3.2 Safety license

A new licence has been given to VR Ltd. in February 2004.

3.3 Market shares/transport volumes

Freight operations

As VR Ltd. is the only licensed operator; its market share is 100%⁸

Passenger operations

As VR Ltd. is the only licensed operator; its market share is 100%

Finland has opened up EU cross-border freight to competition along TERFN routes. However, this is only 5 per cent of total freight traffic, so the impact will be limited.

In 2002, a study prepared by the Ministry of Transport and Communications and RHK evaluated the effects of opening the rail network to competition in freight traffic in Finland on the basis of experience in Sweden. The study estimated that broad competition would not be created in Finland. The incentive to enter the market is reduced by small freight flows, long distances and demanding weather conditions, Finland's exceptional track gauge (same as in Russia), large rolling stock investments and the need for skilled personnel.

⁷ Source: www.europa.eu.int/comm/transport/rail/rmms/licences/suomi.htm;
last update: 29/05/2002

⁸ According to the Finnish Railway Statistics there is only one private freight railway undertaking operating a route length of 11 kilometres, i.e. holding a marginal market share.

VR's strong role on the market also reduces willingness to enter competition and new operators will most likely prefer to seek cooperation possibilities with VR⁹. Furthermore, the Government is considering opening up to competitive tendering the commuter rail services in the Helsinki area.

⁹ Source: Annual Report 2002, RHK.

4 NGO'S

There are no user groups or any other special NGO's in the railway transport sector in Finland. The Confederation of Finnish Industry and Employers (TT) is naturally keen on freight transport issues (www.tt.fi).

Trade unions are also interested in rail transport issues in general.

5 FURTHER FACTS AND STATISTICS

5.1 Complaint statistics and information

In June 2002, the Finnish Competition Authority (FCA) issued the Ministry of Transport and Communications a statement on its draft proposal for a new Railway Act.

The FCA stated that the government bill for a new Railway Act would still open up railway competition in Finland regrettably slowly. The Act would only implement the obligatory changes caused by EU rules, i.e. competition was proposed to be opened up for competition in intra-EU international traffic only. Domestic cargo and passenger traffic and the traffic between Finland and Russia would still remain the sole right of VR Ltd.

It was the FCA's assessment that Finland is sufficiently prepared to open up for competition e.g. the markets of domestic cargo traffic and commuter traffic at a clearly faster speed than what is proposed now. The FCA has previously proposed opening up competition in the cargo traffic between Finland and Russia and passenger long-distance traffic.

The following rail related case was brought to the Finnish Competition Authority:

Use of a dominant position to restrict competition in the production or marketing of other products ([Art. 7\(5\)](#))

- The Finnish state railways VR Ltd was allegedly cross-subsidising its Transpoint road transports from state funds or funds collected from the railroad transports. For the conduct to be considered forbidden cross-subsidisation, the resources needed should have been obtained in the cover of a dominant position and their transfer to the subsidised sector should have been so continuous and extensive that it would have implied a major competitive advantage with respect to competitors on the subsidised sector. Additionally, the conduct should have aimed at obtaining a dominant position in the subsidised sector or its inevitable result should have been such a significant restriction of competition that conquering a new field and expanding the dominant position would have been possible, or that the conduct had otherwise distorted the structure in the field and led to a long-lasting decrease in its efficiency. When these conditions were not met, Transpoint was not found guilty of forbidden cross-subsidisation. (*FCA's decision of 12 November 1993.*)

5.2 Railway accident statistics

Year	Persons killed in rail accidents including at railway crossings	Rail passengers killed in accidents
1995	17	1
1996	12	3
1997	21	1
1998	24	10
1999	16	1
2000	20	2

Source: EU Energy and Transport in Figures 2002, UIC, IRTAD

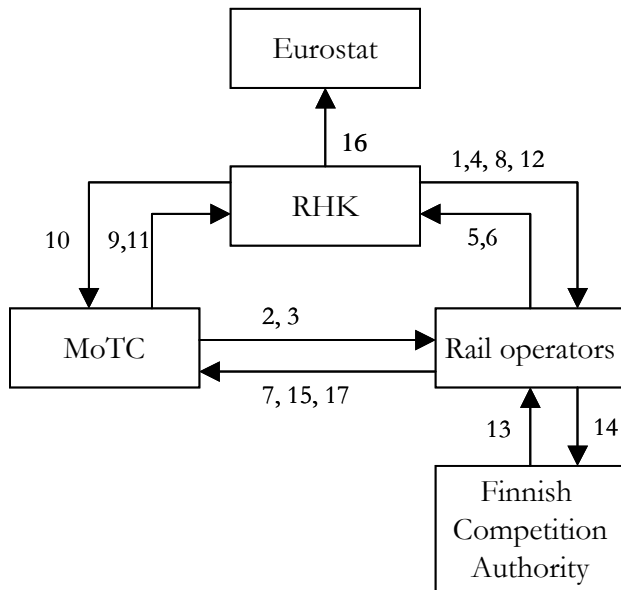
Figure 4 *Railway Accidents in 2003 (Accidents caused by rolling stock in motion, resulting in death of persons or serious injuries or damage of more than EUR 10,000)*

Nature of accident	Number of accidents	Number of persons killed or seriously injured ²⁾		
		Killed	Seriously injured	Total
Collisions	6	0	0	0
Train traffic	1	0	0	0
Shunting	5	0	0	0
Derailments	8	0	0	0
Train traffic	6	0	0	0
Shunting	2	0	0	0
Level-crossing accidents	52	6	6	12
With safety equipment	12	2	1	3
Without safety equipment	40	4	5	9
Fire in rolling stock in motion	8	0	0	0
Other accidents	18	11	11	22
Total	92	17	17	34
Accidents caused by road vehicles running into or through half-barriers	180			

²⁾ As defined by UIC (International Union of Railways)

Source: Finnish Railway Statistics 2004 (<http://www.rhk.fi/english/research/frs04.html>)

6 GRAPHICAL OVERVIEW



- 1) RHK is responsible for safety certification of rolling stock and railway undertakings
- 2) MoTC grants operating licences to rail operators
- 3) Infrastructure charges are mainly set up by a decree of MoTC and partly by a separate law.
- 4) RHK allocates the railway capacity in the form of train paths.
- 5) Railway operators make a request for train paths
- 6) RHK collects the infrastructure charges that railway operators have to pay for use of the network
- 7) MoTC is the appeal body for rail operators concerning decisions related to charging and capacity allocation
- 8) As a Notified Body, RHK authorises (sub)systems
- 9) RHK receives funds for infrastructure management and operating costs through the state budget (and other forms of financing, such as network charges and rental income).
- 10) RHK is reporting to the MoTC
- 11) MoTC approves, assesses and controls the notified bodies. At the moment RHK is the only notified body. MoTC will appoint a new Notified Body before the end of May 2004.
- 12) As a notified body, RHK carries out assessments of conformity and suitability of (sub)systems for use
- 13) The Finnish Competition Authority monitors and enforces competition.
- 14) Rail operators can complain at the Competition Authority on issues concerning competition in the railway sector.
- 15) MoTC collects financial data from railway undertakings
- 16) RHK is responsible for national contribution to Community Statistics on rail transport
- 17) MoTC is responsible for the evaluation of annual PSO claims.