

ERAIL MONOGRAPH

POLAND

Submitted to:

European Commission, DG Transport and Energy

Submitted by:

NEA Transport research and training, the Netherlands

OGM, Belgium

University of Oxford, Transport Studies Unit, United Kingdom

TINA Vienna, Austria

Erasmus University Rotterdam, the Netherlands

TIS.pt, Portugal

Status:

Version 6

Rijswijk, The Netherlands, June 2005

CONTENTS

	<u>page</u>
1	ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS ..7
1.1	Current organisations7
1.1.1	Railway Department within the structure of the Ministry of Infrastructure (previously Ministry of Transport and Maritime Economy).....7
1.1.2	Railway Transport Office (previously Main Railway Inspectorate).....8
1.1.3	Department of Competition Protection (DCP) by the Office for Competition and Consumer Protection (OCCP)11
1.1.4	PKP S.A. Polish state Railways14
1.1.5	JSC PKP Polish Railway Lines (PLK).....16
1.2	Authorities required by the 2 nd Railway Package.....18
2	ORGANISATION OF PUBLIC TASKS 19
2.1	Separation, licensing and charging.....19
2.1.1	Investigation of accidents (2001/12).....19
2.1.2	Safety certification of rolling stock and railway undertakings (2001/12).....19
2.1.3	Licensing of railway undertakings (2001/13)20
2.1.4	Track access (2001/12)20
2.1.5	Developing the capacity allocation framework (2001/14).....21
2.1.6	Publishing of capacity allocation framework (2001/14).....22
2.1.7	Setting of infrastructure charges (2001/14).....22
2.1.8	Collection of infrastructure charges (2001/14)23
2.1.9	Publishing of charging framework (2001/14)23
2.1.10	Appeal to decisions related to charging and capacity allocation (2001/14).....24
2.2	Interoperability and safety.....25
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).....25
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).....26
2.2.5	Control on (sub/system) operation and maintenance in accordance with regulations (96/48 and 2001/16, art 14)26
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 tasks26
2.2.7	Assessment/control of Notified Bodies (96/48 and 2001/16, art. 20)26
2.2.8	Assessment of conformity and/or suitability of (sub)systems for use (96/48 and 2001/16, art 13).....27
2.3	State aid, competition and public service obligations27
2.3.1	Monitoring of competition (1017/68, 2001/12 and 01/2003).....27
2.3.2	Enforcing of competition (01/2003).....27
2.3.3	Complaint handling related to competition (01/2003)28
2.3.4	Evaluation of annual PSO claims (1191/69)28
2.4	Statistics31
2.4.1	Collection of financial data from railway undertakings (1192/69).....31
2.4.2	Collection of financial data from infrastructure managers (1108/70).....31

2.4.3	National contribution to the Community statistics on rail transport to Eurostat (91/2003).....	31
3	TRAIN OPERATING COMPANIES.....	33
3.1	List of train operating companies.....	33
3.2	Safety license	33
3.3	Market shares/transport volumes	33
4	NGO'S	35
4.1	Industry associations	35
4.2	User groups	35
4.3	Trade unions.....	35
5	FURTHER FACTS AND STATISTICS.....	37
5.1	Complaint statistics and information.....	37
5.2	Railway accident statistics	37
6	GRAPHICAL OVERVIEW	39

GLOSSARY

Abbreviation	Polish name (if applicable)	English name
ORGANISATIONS		
DCP	Departament Ochrony Konkurencji	Department of Competition Protection
OCCP	Urząd Ochrony Konkurencji i Konsumentów	Office for Competition and Consumer Protection
PKP SA	Polskie Koleje Państwowe Spółka Akcyjna	Polish State Railways (holding company operators)
PLK	PKP Polskie Linie Kolejowe S.A.	JSC PKP Polish Railway Lines (infrastructure manager)
RTO	Urząd Transportu Kolejowego	Railway Transport Office
LEGAL FRAMEWORK		

1 EURO = 4,1 Zloty (January 2005)

1 ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS

1.1 Current organisations

1.1.1 Railway Department within the structure of the Ministry of Infrastructure (previously Ministry of Transport and Maritime Economy)

The main function of the Railway Department of the Ministry of Infrastructure is to prepare legal acts concerning the Railway functioning and regulation. The new Law on Railway Transport (March 2003) was prepared by this office. In some cases Minister of Infrastructure can mediate between various parties (i.e. unions, operators etc.).

Organisation chart

Not available

Income and expenses

Not available

Number of employees

30 people fulfil the Railway transport management tasks in the department.

Clients

The main clients of the Railway Department are the operators, infrastructure managers, railway transport office, and statistical offices. The main obligations of the department will be law preparation/revision.

Contact details for clients

Republic of Poland Ministry Infrastructure

Railway Department

Fax: +48-22) 630-14-14

Tel: +48-22) 630-14-10

Email: aserozynska@mi.gov.pl

Web: www.mi.gov.pl

Autonomy of organisation

Minister of Infrastructure coordinates its activities according to the related laws and legal acts passed by the Polish parliament.

1.1.2 Railway Transport Office (previously Main Railway Inspectorate)

The Railway Transport Office (RTO) took over the tasks of the Main Polish Railway Inspectorate in 2003. The new Polish Law on Railway Transport (2003) has given the President of the organization the main regulatory powers in the area of the Polish Railways. The President of the RTO is in charge of licensing, safety certification, setting of charges, dispute settlement over many issues and the competition supervision in the Polish Railways. Most of the organizational structure and staff of RTO were kept from the previous inspectorate.

The central office of governmental administration is responsible for the safety issues. Primary the President of the Railway Transport Office is responsible. It was established by the transformation of the General Railway Inspectorate (GRI)/President of the GRI and the RTO took over tasks and personnel. Therefore, the RTO has a significant experience in the field of railway safety. The President of the RTO is appointed by the Prime Minister on a proposal of the Minister of Infrastructure and is subordinate to the above mentioned Minister. Every year the President of the RTO presents to the Minister of Infrastructure the evaluation of the state of the railway traffic safety.

The Law on Railway Transport (28th March 2003) regulates the basic rules of railway safety and according to this Law the President of the RTO inter alia is responsible for:

- supervision of keeping of the rules of safety in the railway transport,
- supervision of the correct maintenance and operation of the railway lines and railway sidings,
- supervision of safety of transport of dangerous goods, appointment of the commission and authorisation of advisers on safety of transport of the dangerous goods,
- chairing of the works of past-accidental commission on railway catastrophes and supervision over other past-accidental commissions,
- undertaking action for improvement of the railway transport safety,
- approval of the internal railway regulations,
- control of the fulfilment of duties regarding railway safety by railway managers, operators and railway sidings users,
- control of complying with regulations and execution of decisions and rules in the field of railway,
- stopping of the railway traffic or limitation of traffic on the railway line or section in case of danger to the safety of the railway traffic or transport of people and goods,
- issue of the safety certificates and permission of operation.

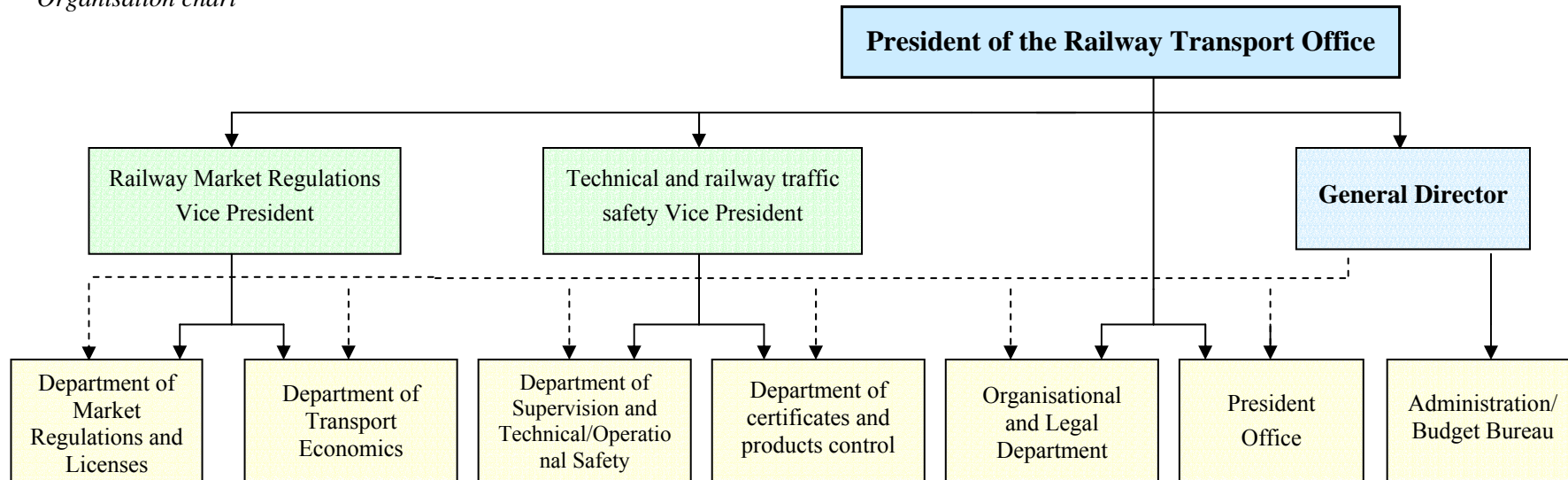
In case of the railway accidents or railway catastrophe the infrastructure manager is obliged to inform the President of the RTO. In case of danger to the safety of the railway traffic or transport of persons or goods the infrastructure manager is obliged to eliminate the danger, including the stopping or limitation of the railway traffic on the whole line or its section.

“The railway accident” and “railway catastrophe” has been defined in the Law on the Railway Transport.

The President of the RTO leads the explanatory proceedings on the reasons of the catastrophes. The Minister of Infrastructure by way of the regulation will define the detailed rules of informing about railway catastrophes and accidents as well as rules of work of the post-accidental commission. Such regulation has not been issued yet.

The Law on Railway Transport requires the safety certificates from the infrastructure manager, railways operator and user of the railway siding.

Organisation chart



Income and expenses

Not available

Number of employees

Not available

Legal constitution

The Railway Transport Office is the central office of governmental administration and the regulator for the Railways. The Law of 28th March 2003 on Railway Transport (Art. 10-16) establishes the RTO.

Clients

The clients of the RTO are the railway operators, infrastructure managers and the state.

Contact details for clients

Railway Transport Office

Chałubińskiego 4/6, 00-928 Warsaw, Poland

Tel: +48 0 22 628-86-81; +48 0 22 524-44-50

Fax: +48 0 22 628-03-66

Email: gik@gik.gov.pl

Web: <http://www.gik.gov.pl/>

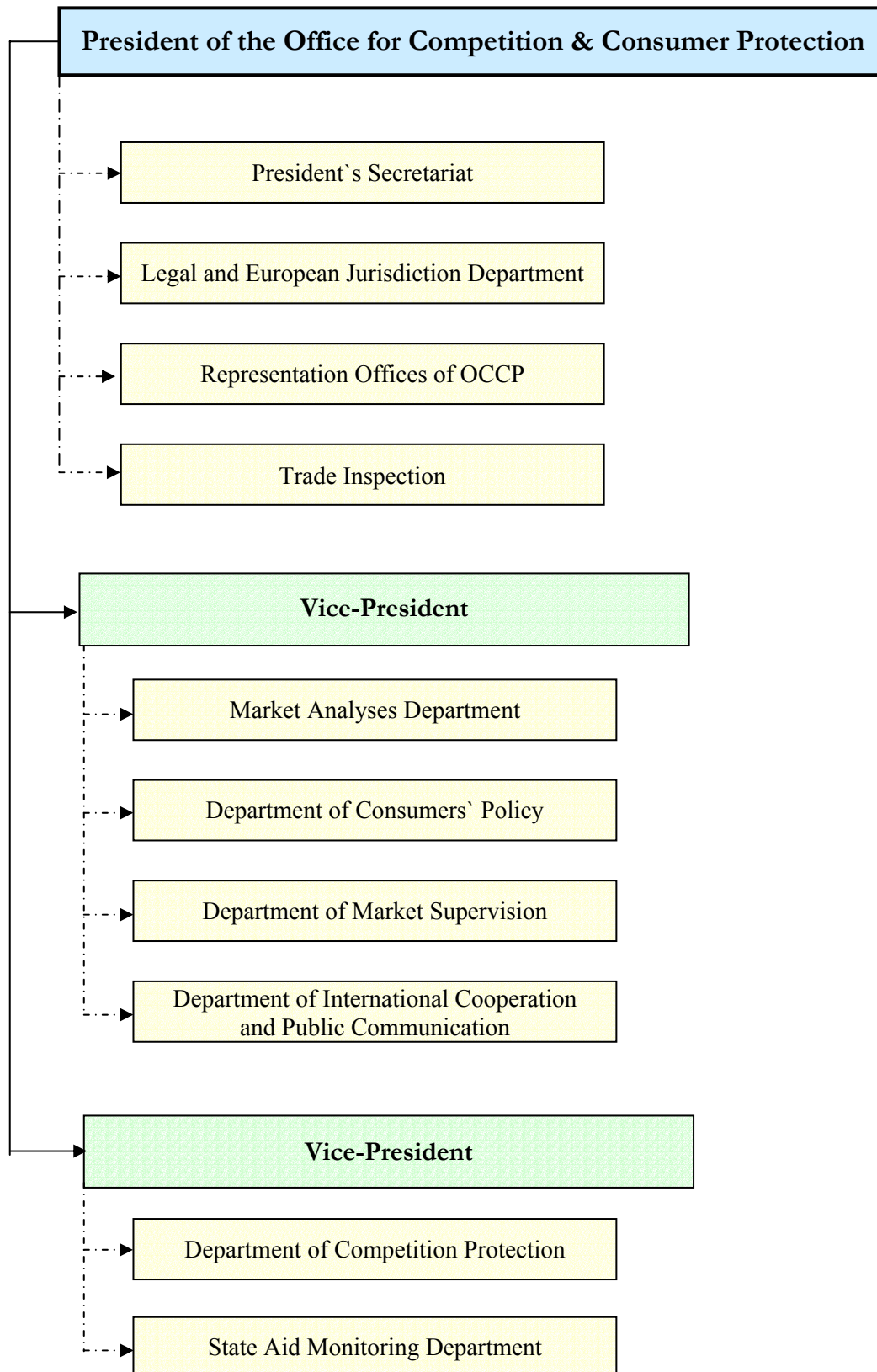
Autonomy of organisation

The activity of the President of the Railway Transport Office is governed by the 2003 Railway Transport Law (Art. 10-16). The President and most important positions in the office are appointed by the Polish Prime Minister (Art. 11). The office is also funded from the state budget.

1.1.3 Department of Competition Protection (DCP) by the Office for Competition and Consumer Protection (OCCP)

The Department of Competition Protection (DCP) by the Office for Competition and Consumer Protection has lost its main legal power over the regulation of competition in Polish Railways after the establishment of the Office for Railway Transport in 2003. Nevertheless, since the RTO has been set up very recently, the President of the OCCP still retains some powers of monitoring of competition in the market (i.e. assisting RTO). Nevertheless, the main competence of OCCP is handling railway passenger complaints.

Organisation chart



Income and expenses

Not available

Number of employees

The Office for Competition and Consumer Protection is composed of a central office and 9 regional branch offices. Taking over the state aid monitoring function and increase of competence in the field of consumer protection will result in demand for additional staff. The IH (the former State Trade Inspection, performing functions of market surveillance, which is subordinated to the President of the Office for Competition and Consumer Protection), in addition to the Central Inspectorate in Warsaw, has 16 territorial inspectorates, currently having *voivodeship* (province) status. In 1998 IH employed 44 people in the Central Inspectorate and 1491 in territorial ones. Functioning in the field of market surveillance IH is operating 10 laboratories. Within the organisational structure of IH there are 16 courts of conciliation and 15 branch courts. At present they are the only possibility for out-of-court settlement of consumer disputes.

Legal constitution

The Department of Competition Protection within the OCCP deals with matters resulting from the Antimonopoly Act in the field of industries operating under conditions of network monopoly (rail transport). The OCCP is an independent state competition, consumer protection, state aid monitoring authority in Poland. The President of the OCCP is appointed by the Prime Minister. The Competition Act grounds the OCCP.

Clients

The clients of this organisation will be mainly rail passengers who are not satisfy with the service.

Contact details for clients

OCCP

Pl. Powstańców Warszawy 1

00-030 Warsaw, Poland

Phone: (22 48) 827 11 73

Fax: (22 48) 827 50 09

uokik@uokik.gov.pl

<http://www.uokik.gov.pl/>

Autonomy of organisation

The Law on Competition and Consumer Protection of December 24, 2000 defines the legal position of the President of the OCCP. The President of the OCCP is the central office of governmental administration. The President of the OCCP is under supervision of the Prime Minister. The position of the President of the OCCP can be occupied only by the person acting as the warrantor of fairness of performing function in public interest. The President acts in the field of the competition and consumer protection. The proceedings of the President have the particular and

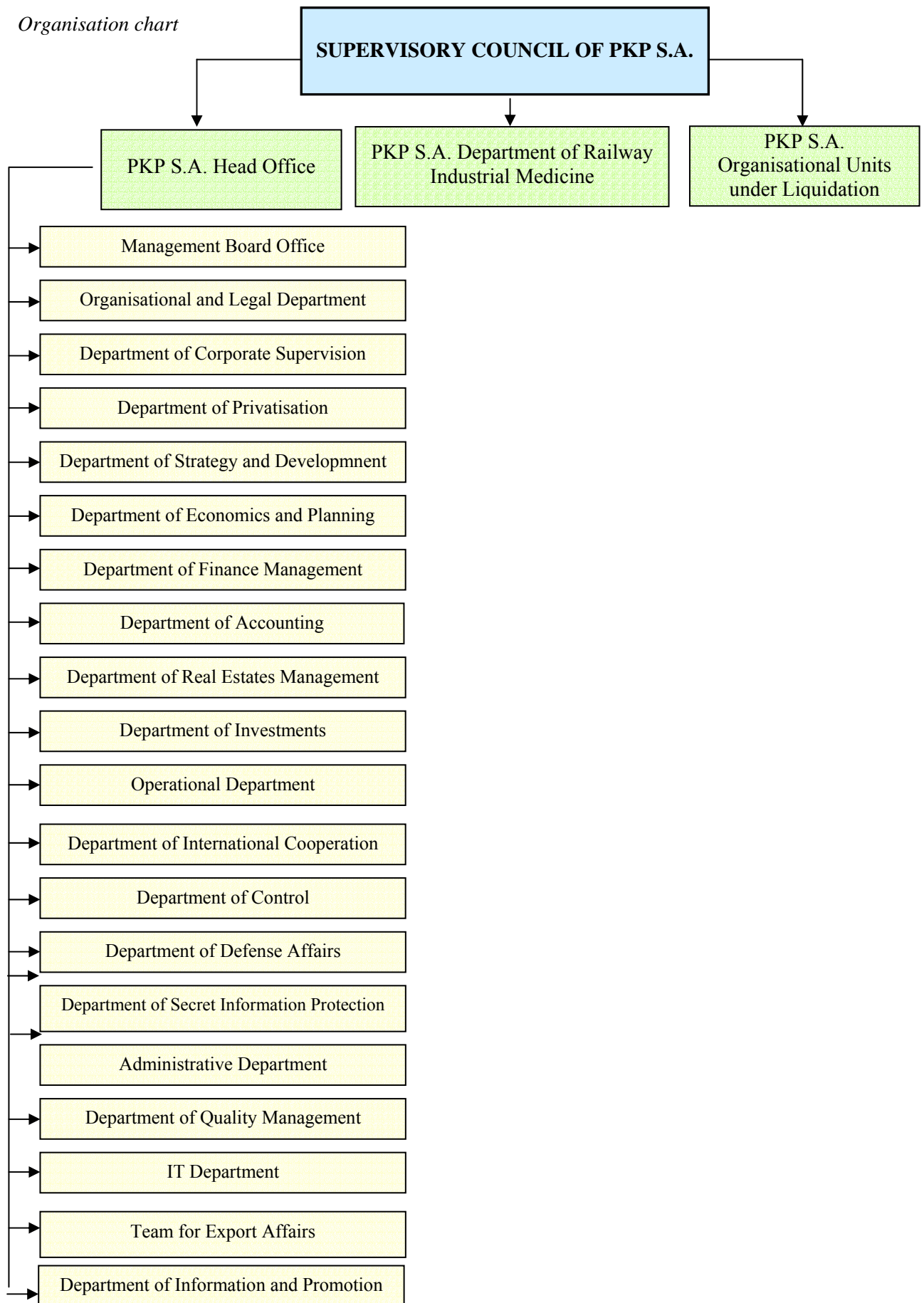
special character and is similar to the proceedings in the administrative court. There is a possibility to overrule the President's decision by appealing to the Court of Competition and Consumer Protection. The Polish Prime Minister appoints the President of the OCCP.

1.1.4 PKP S.A. Polish state Railways

PKP JSC was established on 1 January 2001 as a result of commercialisation of the state-owned enterprise PKP. This company plays dominant role in the PKP Group. The following are among other its core tasks:

- execution of restructuring processes,
- development of redundant assets,
- management of financial liquidity of the companies of PKP Group,
- preparation of privatisation projects for PKP Group's companies,
- implementation of the quality management system according to ISO standards.

Organisation chart



Income and expenses

(in EUR)		2001	2002	2003
INCOME	a. Income from Infrastructure access charges			
	b. Subsidy from the State			
	c. Total		2,750,700	
EXPENSES	Total		3,202,300	
RESULT	Total		- 451,600	

Number of employees

31/12/2002: 81,444

Legal constitution

Polish State Railways, (**PKP SA**) is the joint stock company that has commenced its business activities on 1st January 2001 taking over all rights and commitments of the state-owned enterprise Polish Railways. PKP SA company's business activities are to: manage and maintain railway lines, run business in the field of both domestic and international rail transport of goods and people as well as provide related services, execute the restructuring programme of Polish State Railways and manage the PKP group work. The only shareholder of PKP SA is the Treasury, that is the Polish state.

Contact details for clients

Polskie Koleje Państwowe S.A.

CENTRALA PKP S.A.

(Headquarters of the Polish State Railways Joint Stock Company)

ul. Szczęśliwicka 62

00-973 Warsaw

Poland

International Cooperation Office

tel.: +48 22 52 49 181

fax: +48 22 52 49 182

e-mail: kzr@pkp.com.pl

1.1.5 JSC PKP Polish Railway Lines (PLK)

The PLK is an organization who is in charge of providing track access to the railway operators and infrastructure managers in Poland. They also develop and administer (i.e. invoice) the charging mechanism for track use. PLK is also responsible for the maintenance of the tracks.

Organisation chart

see www.plk-sa.pl

Income and expenses

(in EUR)		2001	2002	2003
INCOME	a. Income from Infrastructure access charges			
	b. Subsidy from the State			
	c. Total		705,900	745,400
EXPENSES	Total		929,600	808,400
RESULT	Total		- 223,700	-63,000

Number of employees

31/12/2002: 47,567

31/12/2003: 45,507

Legal constitution

The PLK was established on the basis of the Law on Commercialisation, Restructuring and Privatisation of the PKP state-owned enterprise. It is a joint stock company run in conformity with market economy rules. PLK is in charge of managing railway lines. The General Assembly of PLK is represented by the representatives of shares owners, that is by PKP S.A. and the Treasury. The Minister of Infrastructure has a great impact on the company issues, approves articles of association and its changes. Furthermore the Minister points candidates on members of the Supervisory Board (the Supervisory Board is appointed by the General Assembly). In case of privatisation or liquidation of the PKP S.A. its shares will be taken over by the Treasury. It means that the PLK will not be privatised.

Clients

Clients of this organisation will be railway operators and infrastructure managers using railway infrastructure. Railway Infrastructure Managers from outside Poland are also clients of the PKP Railway Lines.

Contact details for clients

PKP Polish Railway Lines JSC (PLK)

Targowa 74

PL – 03734 Warsaw, Poland

Tel: +48 22 51 32 000

Fax: +48 22 51 33 943

Email: infode@pkp.com.pl

Web : <http://www.plk-sa.pl/>

Autonomy of organisation

The activity of PLK is regulated by the Commercial Partnerships Code in general and by the Law on Commercialisation, Restructuring and Privatisation of the PKP state-owned enterprise (8th September 2000) and Law on Railway Transport (28th March 2003) in detail. All the staff appointments are done from within. However, it is a structural part of the PKP SA Group organisation, although it has separate accounting practices. Officially majority of the PLK's shares are owned by the PKP SA. However a part of the shares is owned by the Treasury because expenses of the state budget transferred in a given year on national importance railway lines increase the initial capital of the PKP PLK S.A. As a result the shares in increased initial capital are taken over by the Treasury, represented in this case by the Ministry of Infrastructure.

1.2 Authorities required by the 2nd Railway Package

The second Railway Package demands for the establishment of a national safety authority and an independent investigation authority. On the basis of Article 33 of Directive 2004/49/EC Poland is obliged to transpose the Directive, which means that the state is responsible for the implementation.

The central office of governmental administration for railway traffic safety is (and probably will remain) the President of the Railway Transport Office. The President of the RTO is and will be responsible for the correct implementation of the passed legal regulations. (see 1.2 for description of the Railway Transport Office). It is not clear yet or other organisations will be involved.

The transposition will require changing of the Law on the Railway Transport (28th March 2003) and probably issuing of executive regulations. According to our knowledge the Ministry of Infrastructure is currently translating the Directive. More précised information concerning further works is unknown.

At present, it is very difficult to say when the transposition will be completed. Probably it will last at least one year. There are a few probable obstacles for fast and correct implementation of the Directive for example: shortening of the Parliament's term, long-lasting of the necessary bureaucratic and legislative proceedings, complicated character of the EU regulation and necessity of implementation of many changes in the regulations concerning the railway transport at the same time (because of the "package" method of the implementation of the changes in the EU law), necessity of the correct translation into Polish of the II package.

2 ORGANISATION OF PUBLIC TASKS

2.1 Separation, licensing and charging

2.1.1 Investigation of accidents (2001/12)

Responsible organisation

Railway Transport Office

Objectives, tasks and responsibilities

Railway Transport Office investigates the causes of the railway accidents.

Procedure

The procedure of accident investigation is regulated by the internal instructions of the PKP Group. The exact procedure concerning accident investigation has not been specified in the law yet. The Minister of Infrastructure will define the detailed rules of reporting about catastrophes and railway accidents, as well as the rules and the mode of past-accidental commission, aiming at reduction of consequences of above mentioned disasters and railway accidents.

Legal basis of procedure

Law on Railway Transport (2003). Art. 17.

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

Responsible organisation

Railway Transport Office

Objectives, tasks and responsibilities

The President of the Railway Transport Office issues safety certificates for the rolling stock and railway undertakings.

Procedure

The rolling stock and railway undertakings must comply with specific technical regulations (that are in accordance with such regulations of EU) in order to be issued a safety certificate. The safety certificates are issued on the basis of Art. 19, paragraph 4 of the Law on Railway Transport of 28th March 2003 and the Regulation of the Ministry of Infrastructure on Safety Certificates (23rd September 2003) for the period of 5 years. The safety certificates can be withdrawn.

Legal basis of procedure

Law on Railway Transport (2003), Art. 13, 24.

2.1.3 Licensing of railway undertakings (2001/13)

Responsible organisation

Railway Transport Office

Objectives, tasks and responsibilities

President of the Railway Transport Office is responsible for the licensing of railway undertakings (relevant body to grant, change and withdraw licence).

Procedure

The applicant for the licence to run the railway line (be an infrastructure manager) should:

- Have a legal title to operate railway line (be a registered Railway Undertaking) using particular technologies;
- Employ personnel having relevant professional qualifications;
- Have a guarantee of adequate performance for the economic activity covered by the application (financial capability).

The applicant for the licence to perform railway services (passenger or freight transportation etc.) should:

- Use rail vehicle satisfying relevant conditions specified in technical regulations;
- Employ personnel having relevant professional qualification;
- Have a guarantee of adequate performance for the economic activity covered by the application (financial capability);
- The duration of a licence is unlimited.

The licences are issued by the President of the Railway Transport Office on the basis of Art. 45 of the Law on Railway Transport (28th March 2003). There are 45 licensed (operators) railway undertakings nowadays.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art 43-52.

2.1.4 Track access (2001/12)

Responsible organisation

Track access in Poland is ensured by the JSC PLK. However each manager of infrastructure regulates track access on its own lines.

Objectives, tasks and responsibilities

JSC PLK is in charge of providing track access to operators in Poland.

Procedure

Since 1st October 2001, JSC PLK that has been established on the basis of the former Directorate of Railway Infrastructure took over the task of regulating the track access. The contracts between JSC PLK and railway operators are based on the rules of the Civil Law in general. The most important elements of contracts between the railway manager and the operators are defined in the Law on Railway Transport of 28th March 2003 and the Ministerial Regulation of 7th April 2004 on the Conditions of Access and Use of Railway Infrastructure as well as by the regulations issued by the infrastructure manager on the basis of the mentioned Law (Art. 32) and Regulation. There is also the possibility to sign the framework contracts (for the longer period). The track access to foreign operators is limited at the moment. Before 2006 20% of track capacity (on the main lines) will be available to foreign providers (Poland negotiated for such transitional period with EU). After 2006 there will be free entry to the Polish Railway market.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 29 - 36.

2.1.5 Developing the capacity allocation framework (2001/14)

Responsible organisation

Infrastructure Manager - PLK

Objectives, tasks and responsibilities

The Minister of Infrastructure is mandated to issue a regulation concerning rules for capacity allocation, and the form and contents of the request for railway line allocation and procedures for processing. PLK is in charge of administrating the capacity allocation.

Procedure

In general the capacity allocation does not represent a problem, because of the under-utilised capacity on the network. The capacity allocation is done according to criteria of drawing railway schedules. The priority is given by the following order:

1. passenger trains, PSO trains,
2. state regulated transport (i.e. military),
3. operators having old rights based on former timetables,
4. some trains are allocated capacity based on framework agreement.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 30.

2.1.6 Publishing of capacity allocation framework (2001/14)

Responsible organisation

Manager of Infrastructure (PLK)

Objectives, tasks and responsibilities

PLK is in charge of publishing capacity allocation framework.

Procedure

The procedure is published in the Network Statement.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 32 (point 1).

2.1.7 Setting of infrastructure charges (2001/14)

Responsible organisation

Infrastructure manager (PLK) with the supervision of the RTO. The President of the RTO is responsible for: approval and coordination of charges for the use of granted train routes in respect of compatibility with rules of setting charges (Art. 13 paragraph 1 point 1 of the Law on Railway Transport). Furthermore is obliged to handle the complaints of railway operators related to the charges for the use of railway infrastructure (Art. 13 paragraph 1 point 5 of the Law on Railway Transport).

Objectives, tasks and responsibilities

The rules of defining the rules of setting charges are explained in the Ministerial Regulation of 7th April 2004 on the Conditions of Access and Use of Railway Infrastructure.

Procedure

The fee for infrastructure consists of:

1. Basic fee (executed train-km multiplied by the individual rate for the specific type of railway line and train) covers:
 - the right of the operator to utilise the granted route
 - the use of devices and objects necessary to provide technical and commercial handling on the granted route
 - the use of electricity traction supply equipment (catenary)

2. Additional fees are defined by the infrastructure manager on the basis of individual calculations within the contract concerning the additional services signed with operator. Fees for additional services cover for example:
 - supervision of the transportation of dangerous goods,
 - assistance in the operation of non-standard trains,

- provision of water, compressed air, receiving wastewater, fuelling,
- provision of extra information.

In general the charge for infrastructure is based on the costs of operation. The network statement explains specifically what the charges are levied for.

PLK also applies a discount system for clients who wish to receive access to tracks. Depending on the number of years of cooperation between PLK and the clients, the latter are entitled to a discount of maximum 5%. Since long PKP SA cooperation with PLK, PKP providers get up to 5% discount on track access charges while this number for the non-PKP companies is only 1%.

Legal basis of procedure

Polish Law on Railway Transport (28th March 2003), Art. 29-36.

2.1.8 Collection of infrastructure charges (2001/14)

Responsible organisation

Infrastructure Manager - PLK

Objectives, tasks and responsibilities

PKP Polish State Railway Lines, Joint stock company (PLK SA) is in charge of collecting the infrastructure charges. These fees are meant to cover railway infrastructure maintenance and management costs.

Procedure

Invoices are issued monthly (according to the network statement) and must be paid within 14 days. First payments were made already in 1995.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 33, 34.

2.1.9 Publishing of charging framework (2001/14)

Annex this framework (i.e. Network Statement):

<http://www.unece.org/trans/doc/2001/sc2/TRANS-SC2-2001-12e.pdf>

www.pkl-sa.pl/02oferta/02.php

www.plk-sa.pl

Responsible organisation

Manager of Infrastructure (PLK)

Objectives, tasks and responsibilities

The system of infrastructure charges is based on the Law on Railway Transport (28th March 2003) in general and by the Regulation of the Minister of Infrastructure on the Conditions of Access and Use of Railway Infrastructure in detail. PLK publishes the network statement.

Procedure

Not relevant

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 33 (point 6).

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

Responsible organisation

President of RTO and district court – Court of Competition and Consumers Protection

Objectives, tasks and responsibilities

The main tasks of the President of the Railway Transport Office are among other as follow:

1. approval and coordination of charges for the use of granted train routes in respect of compatibility with rules of setting charges;
2. supervision of the provision of equal access of railway operators to the railway infrastructure;
3. supervision of the equal treatment of all railway operators by infrastructure managers, especially within the examination of application for train routes and charges calculation;
4. supervision of the correctness of basic fees calculated by the infrastructure manager and additional fees for the additional services;
5. handling the complaints of railway operators related to:
 - the network statement,
 - the capacity allocation and charges for the use of railway infrastructure.

Procedure

The appeals can be handled differently depending on the nature of the complaint. The administrative procedure is used when the President of the RTO issues the decision concerning railway safety (e.g. break of safety regulations concerning signalling and railway traffic). Such decisions are executed immediately because the railway safety requires it.

However, the mixed procedure is used regarding the access to the railway infrastructure. The complaint can be made by the railway operator (according to Art. 13 paragraph 1 point 5a and 5b of Law on Railway Transport 28th March 2003) or by the RTO itself. At the first stage the decision is issued (administrative procedure) and the whole procedure may finish. But the appealing procedure is also possible. The sides appeal to the Court of Competition and Consumers Protection (not to the organ of appeal like it could be in administrative procedure) where the legal procedure is used.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 14 point 5 and 7.

2.2 Interoperability and safety

Poland has implemented the directives 96/48 and 2001/13 by changing the Law on Railway Transport (the amendment of 20th April 2004). There is lack of executive regulations. More specifically for PKP (99% of Polish market share) there are no rules fostering co-operation with neighbouring network infrastructure managers/operators. The allocation of capacity for the foreign operator requires an international agreement of which Republic of Poland is part of. PKP Polish railway Lines JSC (PKP PLK SA) has taken their own initiative to induce cooperation with Lithuanian, German, Russian, Czech, and Slovak Railways. EU has encouraged Poland to further improve inter-operability of its rail system with neighbouring countries in particular with the Baltic States (2002 accession report).

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

Responsible organisation

President of RTO (supervisory) with the centre of Certification

Objectives, tasks and responsibilities

To draw technical specifications for interoperability

Procedure

Procedures defined in the Law on Railway Transport (including changes implemented on 20th April 2004) and Law on Evaluation of Certification (August 2002). According to the existing regulation any new (legal) product must acquire a certificate from the Polish Centre of Certification. Presumably this could be applied to railways interoperability.

Legal basis of procedure

Law on Railway Transport (including amendments implemented on 20th April 2004), Art. 25b and 25c and following articles.

Law on Evaluation of Certification (August 2002), Art 9 and 10.

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

Not implemented in Polish law.

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

Could be interpreted the same way as 2.2.1.

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

Could be interpreted the same way as 2.2.1.

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

Could be interpreted the same way as 2.2.1.

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

Could be interpreted the same way as 2.2.1.

The approved notified bodies are as follow:

Name and address of notified bodies	Identification number	Responsible for the following products	Responsible for the following procedures/modules
Railway Scientific and Technical Centre Ul. J. Chłopickiego 50 04 – 725 Warszawa Poland	1467	Basically structural areas: <ul style="list-style-type: none"> ➤ Infrastructures ➤ Energy ➤ Control and command and signalling ➤ Rolling stock Basically operational areas: <ul style="list-style-type: none"> ➤ Maintenance ➤ Operation and their constituents 	EC declaration of conformity or suitability for use EC verification

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

Could be interpreted the same way as 2.2.1. and 2.2.6.

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

Could be interpreted the same way as 2.2.1. and 2.2.6.

2.3 State aid, competition and public service obligations

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

Responsible organisation

President of the Railway Transport Office and the President of the Office for Competition and Consumer Protection

Objectives, tasks and responsibilities

The Department of Competition Protection within the Office for Competition and Consumer Protection Office dealt with matters resulting from the Antimonopoly Act in the field of industries operating under conditions of network monopoly (rail transport included). OCCP was created in order to ensure development of competition, protection of entrepreneurs exposed to monopolistic practices and protection of consumer interests. As of March 2003, RTO took over the supervision of the competition in Railway market. Presumably the task is shares between two organizations at the moment.

Procedure

Not relevant

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 14 point 5. Art 33 (point 8). Art 66 (points 1,2,3).

2.3.2 Enforcing of competition (01/2003)

Responsible organisation

Railway Transport Office

Objectives, tasks and responsibilities

According to the present law the President of the Railway Transport Office is in charge of enforcing the competition in Polish Railway Market.

Procedure

RTO can issue administrative fines to operators and infrastructure managers (maximum 2% of annual revenue). The office will take into account the nature of the infringement and the conditions

of the case. Personal fines for the manager of the operator or infrastructure manager are also possible (maximum 300% of the monthly wage).

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 10,13,14,66 (point 2 and3). Depending on the details of a case some administrative law can be also applied.

2.3.3 Complaint handling related to competition (01/2003)

Responsible organisation

Depending on the nature of the complaint the President of the Railway Transport Office and the Court of Competition and Consumers Protection (District Court in Warsaw) will handle the complaints related to competition. Each time specific law will be applied.

Objectives, tasks and responsibilities

To handle complaints related to competition

Procedure

Specific procedures are applied in every case depending on the nature of the situation. The District Court in Warsaw – the antimonopoly court shall be the competent forum in the matters of appeals against decisions of the President of the Office.

Legal basis of procedure

Law on Railway Transport (28th March 2003), Art. 14 point 5.

2.3.4 Evaluation of annual PSO claims (1191/69)

Responsible organisation

The Competition and Consumer Protection Office

Objectives, tasks and responsibilities

In Poland the Council of Ministers is in charge of supervising and evaluating state-aid.

Procedure

No specific procedure for the CCPO. In terms of state aid in general, the Council of Ministers shall, by way of regulation, determine, methods for controlling the efficiency and effectiveness of the aid granted, the time limit for presenting the results of the control to the supervising authority, the scope of information to be provided by the entrepreneurs and forms required for the purpose of providing such information, taking into consideration in particular the forms and purpose of aid subject to the control.

The Council of Ministers shall determine, on an annual basis, by way of regulation, areas of aid. Efficiency and effectiveness shall be subject to the control following the end of the calendar year.

Legal basis of procedure

Act of 27 July 2002 on the Conditions for Admissibility and Supervising of State Aid for Entrepreneurs.

1. What kind of PSO are concluded for Railway Passenger Transport?

Article 40 of the Railway Transport Act of 28 March 2003 (with amendments):

Regional transport – railway transport within one voivodship (regional authority) or connecting two neighboring voivodships, including agglomeration transport (PKP SKM - PKP Fast Regional Rail in TRI-City Ltd., PKP WKD - PKP Warsaw Commuter Rail Ltd.).

(Inter-voivodship transport is not under PSO at the moment, though there are plans to partly restore it).

2. Is a distinction made between long distance and regional/urban transport?

Yes, according to the Railway Transport Act of 28 March 2003 (with amendments), article 4, points 20 and 21:

- Regional passenger transport – see above;
- Qualified passenger transport – inter-voivodship transport (connecting at least 3 voivodships) in domestic and international trains.

(Previously – in the original version of the Act of 28 March 2003 – qualified passenger transport was defined as “inter-voivodship transport in domestic trains *with reserved seats* and in international trains”).

3. Who are the contracting authorities?

Voivodship self-government (Marshal’s Offices) for regional railway transport.

4. What is the total contracting sum?

2003

PKP PR

Value resulting from the Act of 8 Sept. 2000 (following the amendments):

300,000.0 thou. PLN

Value of contracts signed by PKP PR with local governments:

246,314.0 thou. PLN

SKM

Local government's means: 4,762.7 thou. PLN

WKD

Local government's means: 2,419.4 thou. PLN

2004

PKP PR

Local government's means:

430 M PLN (originally 538 M PLN from CIT were to be allocated)

(Additional financial resources came from the state budget as subject-related subsidies to fare reductions and as subsidies to rolling stock investments; moreover in 2004 PKP PR received financial resources from obligations issued by PKP S.A.)

5. What is the length of the contract?

Typically one year, though PKP PR insists on longer contracts, within the frames of European directives. Recently PKP PR has signed the first two-year contract (2005-2006) with the Malopolskie voivodship.

6. Are the PSO awarded via public procurement procedures?

Not at the moment. In the beginning of the year 2005 the Wielkopolskie voivodship intended to announce a tender for regional services due to problems with reaching an agreement with PKP PR. However, no private operator fulfilled the requirements.

7. What percentage of the market is covered via the PSO?

	2003		2004	
	M pass.	M pass.-km	M pass.	M pass.-km
PKP PR, slow trains	184,5	7 277,2	177,6	6 983,6
PKP SKM	35,4	640,3	35,4	594,3
PKP WKD	6,1	105,9	6,2	112,8
Total PSO (estimated)	226,0	8 023,4	219,2	7 690,7
Total railway	283,3	19 649,0	270,8	18 300,0
PSO share	79,8%	40,8%	80,9%	42,0%

2.4 Statistics

The Central Statistical Office does the collection of main statistics in Poland.

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

Responsible organisation

The Departments of Archive within each company of the PKP Group is responsible for the collection of the financial data.

Procedure

Not specified

Legal basis of procedure

The Law of 29th September 1994 on accounting (including amendments)

The Law on Commercialisation, Restructuring and Privatisation of the PKP state-owned enterprise (8th September 2000)

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

Responsible Organisation

There is no specified organisation because the implementation of the Regulation has not finished yet.

Procedure

Not specified

Legal basis of procedure

The Law on Railway Transport (28th March 2003). Furthermore the Regulation is that type of legal act that obliged directly.

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

Responsible Organisation

The Central Statistical Office

Objectives, tasks and responsibilities

The Central Statistical Office is obliged to collect necessary data concerning rail transport. Furthermore is responsible for the transmission of the statistics to the Eurostat.

Legal basis of procedure

The Regulation of the Council of Ministers on the Programme of Statistical Survey of Public Statistics. Every year such Regulation is issued and specified data are transmitted by the railway undertakings to the Central Statistical Office.

3 TRAIN OPERATING COMPANIES

3.1 List of train operating companies

In Poland there are 2 bigger infrastructure managers (both from the PKP SA Group – PKP PLK S.A. and PKP LHS Ltd.) and 11 smaller. There are 45 different operators.

Freight operations (biggest)

1. **PKP Cargo JSC** (49,586 employees)
2. **PKP LHS Ltd. PKP Metallurgical Broad Gauge Line, Limited Liability Company** (1,154 employees)
3. **Chem Trans Logistic** (about 2,000 employees)

Passenger operations (biggest)

1. **PKP Regional Services Ltd.** (20, 821 employees)
2. **PKP Intercity Ltd.** (2,045 employees) – Express, InterCity and EuroCity trains
3. **PKP Fast Regional Rail in Tri-City Ltd.** (750 employees) – realises services within Gdansk-Glowny-Wejherowo agglomeration
4. **PKP Warsaw Commuter Rail Ltd.** (218 employees) – operates on the Grodzisk Mazowiecki – Warsaw line

3.2 Safety license

All the operating companies have safety certificates in Poland.

3.3 Market shares/transport volumes

Freight operations of rail transport

	2001	2002
Tons carried (x 1 million)	167,2	159,7
Ton-kilometres (x 1 million)	48,059	46,572

Freight operations of rail transport

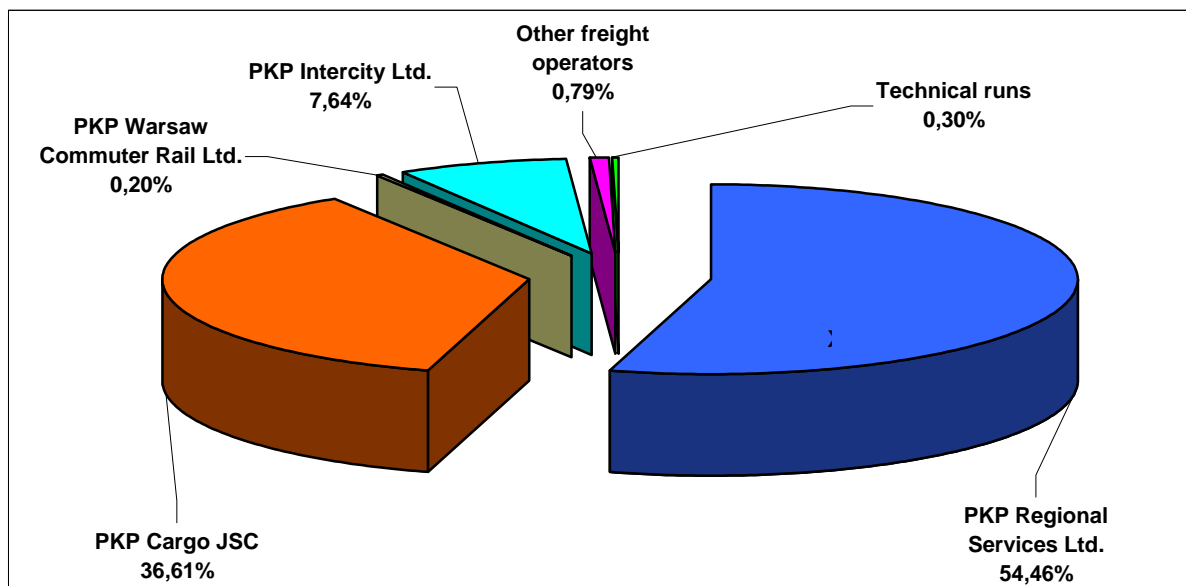
	2001	2002
Passengers carried (x 1 million)	332,2	304,1
Passenger-kilometres (x 1 million)	22,467	20,685

General Introduction

The market share of PKP SA providers in Polish railway market is about 99% compared with other operators in the country. The share of railways in the transport of goods in Poland is now

approximately 20%. The share of mixed, road and rail, transport is very low due to underdeveloped computer systems and lack of appropriate platforms, rolling stock for the transport of semi-trailers or containers and the lack of equipment for container handling. However, intermodal transport has one of the best prospects for growth in Poland. The Polish State Railways (PKP) is the third largest railway in Europe in terms of line length with 25,000 km of rail, but in terms of quality of equipment and service it is far behind EU countries. About 60-80% of PKP's rolling stock is outdated and needs modernisation.

Share of operators in runs within provision of access to railway lines in 2003



Freight operations

In 2003 standard gauge railways of PKP transported 161,816.1 thousand tonnes of goods which is 1.3% more than in the year 2002. The biggest increase was witnessed for bricks, potatoes and stones. Transport of coal, which makes up 43% of total PKP freight transport, decreased by 8.3%. Therefore, despite of the decrease of the coal transport the total amount of transported goods increased. PKP Cargo JSC transported 155,698.50 million tonnes of freight in 2003, while PKP LHS Ltd. PKP Metallurgical Broad Gauge Line, Limited Liability Company 6,117.7 million tonnes. The latter company has its main operations on Polish – Ukrainian border, because of the other rail line standards (1520 mm). Competition on the national freight market is still limited.

Passenger operations

As for the passenger services, 300.3 million passengers (7.8 trips per inhabitant in 2003) used PKP SA service in 2003. Most passengers were carried by regional trains – 238.5 million people (including SKM and WKD) and inter-provincial trains – 62.5 million. On average 4008 (2002) regional trains, 349 (2002) inter-provincial trains, and 136 (2002) qualified trains (InterCity) were in daily operation throughout the country.

4 NGO'S

Type of NGO	Number of NGOs	The main activity of 2 key organizations (include name)
Industry		
User	1	Consumer Organisation
Trade Unions	14	See 4.2
Total # of members		
Environmental		
Other		

4.1 Industry associations

4.2 User groups

Polish Consumer Federation National Council

Consumer Federation is a non-governmental, independent organisation founded in 1981 whose main aim is the protection of an individual consumer in Poland. It operates in the whole country thanks to the network of 50 local advice offices called “clubs” which provide legal advice and cooperate with volunteers. In 1999 Consumer Federation became a member of European Consumer Organisation.

4.3 Trade unions

1. Trade Union Federation of Employees of Automatic Control Engineering and Telecommunication of PKP (Polish State Railways Enterprise)
Targowa 74 03-734 WARSZAWA
2. Trade Union Of Municipal Construction
Jaracza 2 Warsaw
3. All-Poland Inter-Enterprise Trade Union of Railway Technical Support
Jaracza 2, 00-378 WARSZAWA
4. Trade Union of PKP Administration
Al. Roździeńskiego 1, 40-202 KATOWICE
5. Independent Self-Governing Trade Union of Railway Cars Service in PKP
Piękna 21, 26-110 SKARŻYSKO
6. All-Poland Inter-Enterprise Trade Union of Railway Protection Service
Targowa 74 03-734 WARSZAWA

7. Trade Union of Conductors Teams in the Republic of Poland
Targowa 74, 03-734 Warszawa
8. National Council of Autonomous Trade Unions of PKP Enterprise
Kołłątaja 32, 76-200 SŁUPSK
9. Trade Union of PKP Dispatchers
Targowa 74, Warsaw
10. Inter-Enterprise Trade Union Of Railway Car Inspectors
Al. Roździeńskiego 1, 40-202 Katowice
11. Federation of Independent Self-Governing Trade Unions of Communication Employees in Poland
Świętokrzyska 31/33 (P-7), 00-950 WARSZAWA
12. Trade Union Federation of Employees of Communication Industry
Świętokrzyska 31/33 (P-7), 00-950 WARSZAWA
13. Federation of Works Trade Union Organisations of Employees Of Radio Communication and Tele-transmission in Poland
Świętokrzyska 31/33 (P-7), 00-950 WARSZAWA
14. Trade Union Federation of Telecommunication Employees in the Republic of Poland
Francuska 101, 40-506 KATOWICE

The biggest challenge of PKP restructuring was the employment restructuring. The main aim of 2001 reform was to reduce number of staff, improve labour productivity, and rationalize employment structure with respect to education level, age and occupational qualifications. Many workers in PKP were to lose jobs, hence the main task of the unions is to prevent mass lay offs or to help workers to retrain. Some strikes (like the one on 7th June 2001) have shown the ambitions of railway unions. PKP is highly unionised which made the restructuring of the company quite difficult. In 2002 140,632 were employed. Its worth noting though that unions, PKP and the government have agreed on the restructurisation plan of the railways (2001) which included the inevitable loss of jobs.

5 FURTHER FACTS AND STATISTICS

5.1 Complaint statistics and information

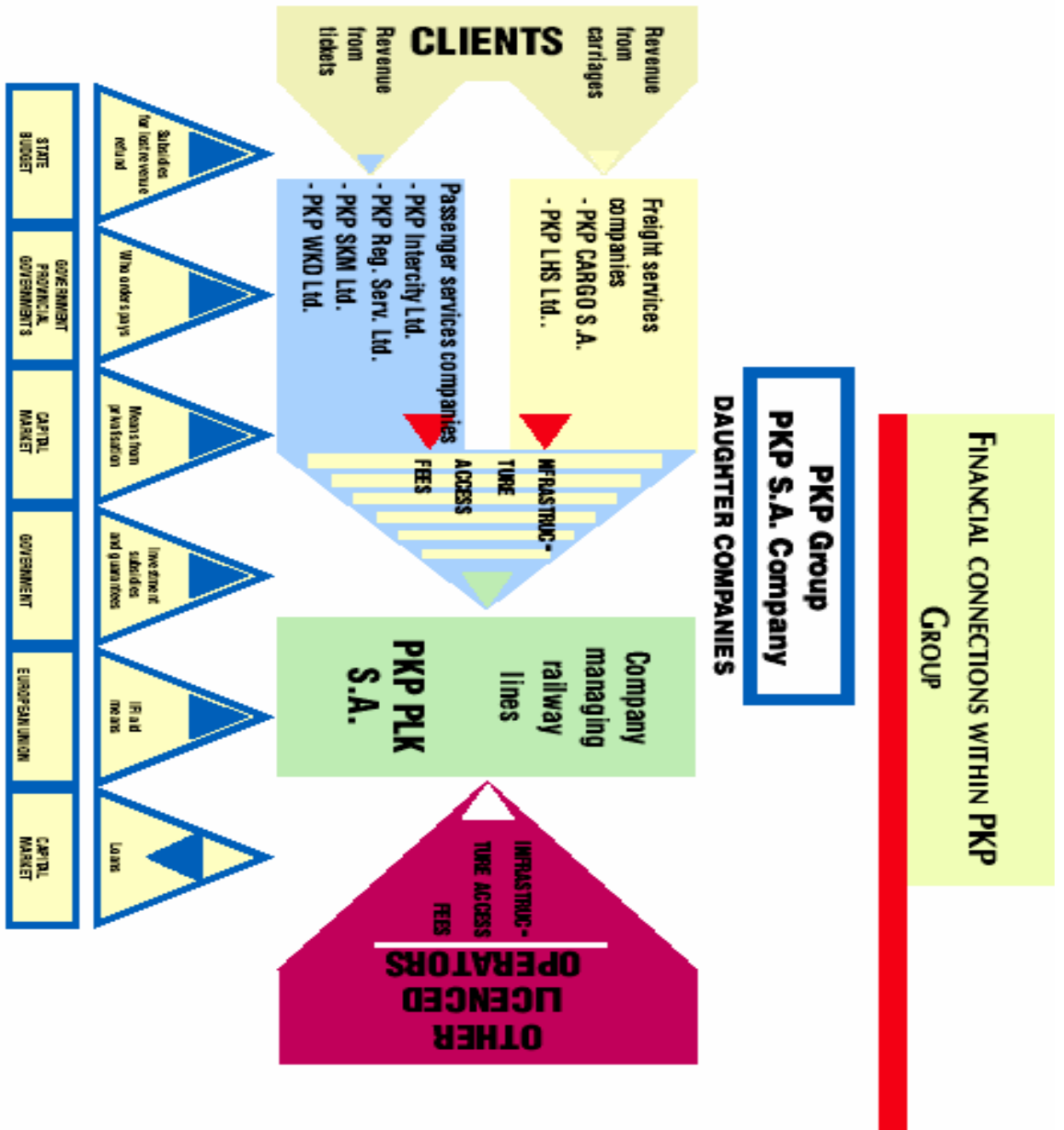
There has been dispute between operator and previous Main Railway Inspectorate over the railway crossing qualifications. The dispute reached administrative court and was solved in favour of the operator. In terms of network access, infrastructure charges, competition related disputes the most common disputes are over payment for access charges. According to PLK problems occur when collecting the charge, but since the contract is signed between PLK and a client, most of the time the PLK has upper hand in legal disputes.

5.2 Railway accident statistics

Only UIC statistics

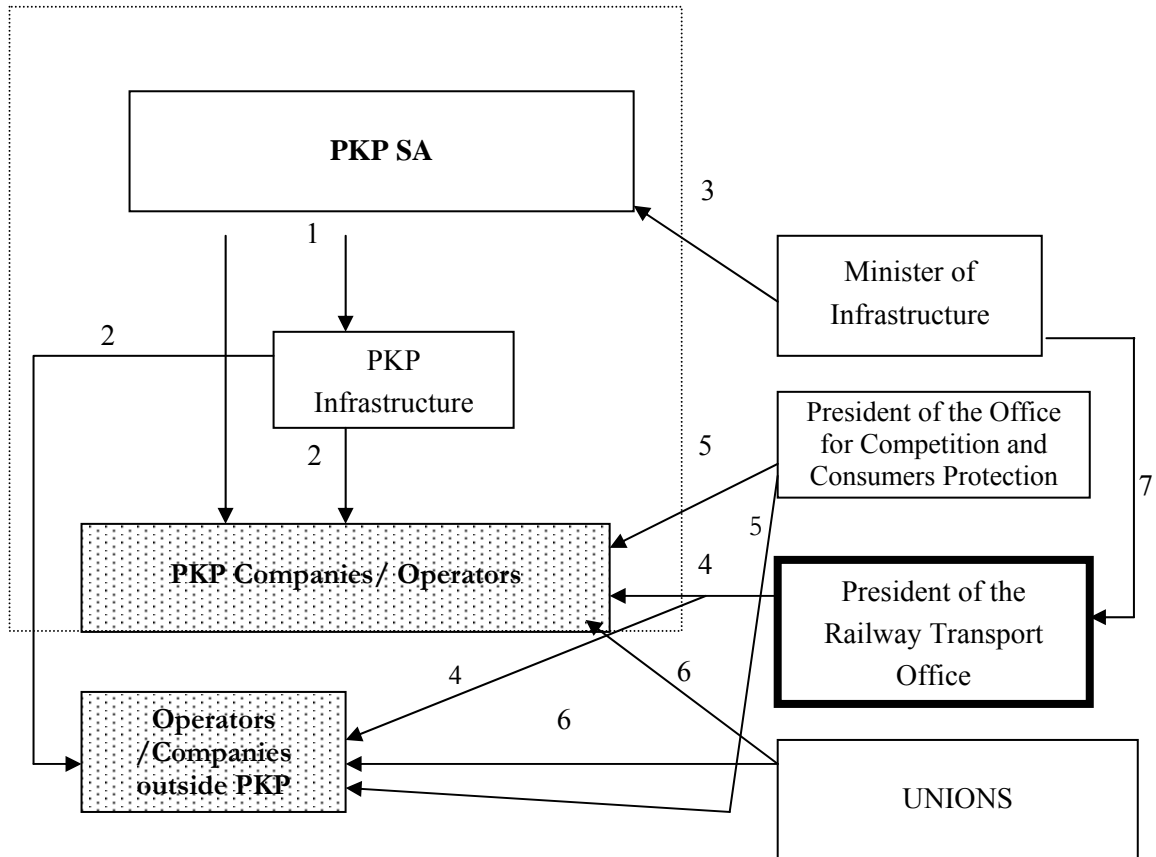
6 GRAPHICAL OVERVIEW

Chart of financial Connections within PKP group



Graphical Overview of the PKP Group interaction within wider institutional framework

PKP Group



Explanation of Links:

1. PKP SA is in charge in managing railway lines, running business in the field of rail transport of goods and passengers. It is also in charge of restructuring PKP. PKP Infrastructure Manager is a company assisting PKP to do these tasks. This company is part of PKP SA Organisation.
2. PKP Infrastructure Manager is providing track access to companies within and outside PKP Group. It also solves disputes related to track charging. In case that the disputes is not solved the railway operator on the basis of Art. 13 paragraph 5a and 5b of the Law on Railway Transport (28th March 2003) can make a complaint to the President of the RTO. The mode of Art. 14 paragraph 5 is used.
3. Ministry of Infrastructure is linked to PKP SA through PSO money transfers
4. The President of the RTO issues licenses to companies and other Operators. A concession is given to the PKP Group and other operators. Furthermore the President supervises the safety and technical compliance of railway stock and railway lines with proper legislation.

5. The President of the Office for Competition and Consumer Protection monitors unfair competition among companies (the PKP Group and others). The President of the OCCP is entitled to issue the decision recognizing a given practice as restrictive to competition and ordering its abandonment.
6. Unions lobby for the PKP Group and other companies workers' demands.
7. The MoI appoints some staff of the RTO and issues laws related to the office's functions.