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GLOSSARY

Abbreviation	Romanian name (if applicable)	English name
ORGANISATIONS		
AFER	Autoritatea Feroviara Romana	Romanian Railway Authority
CFR	Compania Nationala de Cai Ferate	National Society of Romanian Railways
CFR Calatori	Societatea Nationala de Transport Feroviar de Calatori	National Company for Passenger Railway Transport
CFR MARFA	Societatea Nationala de Transport Feroviar de Marfa	National Company for Freight Railway Transport
MTCT	Ministerul Transporturilor, Constructiilor si Turismului	Ministry of Transport, Construction and Tourism
LEGAL FRAMEWORK		
NGO		Non Governmental Organisation
PSO		Public Service Obligation
TSI		Technical Specifications for Interoperability

1 ORGANISATIONS INVOLVED IN CARRYING OUT PUBLIC TASKS

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

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

The Romanian National Railways Society (S.N.C.F.R.) ceased existing in October 1998 (on the basis of Govern Decision No 581/1998). The reorganization of SNCFR created five independent commercial joint-stock companies:

- The National Railway Company, CFR. Its objective is to manage the rail infrastructure and the auxiliary railway assets.
- CFR Marfa the National Company for Railway Freight Transportation's main objective is to improve the performance of public railway freight transport.
- The National Company for Railway Passenger Transportation - CFR Calatori – takes care of the performance of public railways passenger transport.
- The company for the Management of Railway Assets, SAAF, S.A., with the status of a commercial company, has as its main objective to manage the surplus of assets resulted from the reorganization of SNCFR.
- The Railway Management Services Company, SMF, provides financial and accounting services, manages foreign credits and provides legal services.

Concerning: Separation, licensing and charging, Interoperability and safety, State aid, competition and public service obligations, and Statistics, the following organisations are involved in one or more of these clusters of activities:

- CFR Marfa - Freight operating undertaking (National Operator);
- CFR Calatori - Passenger operating undertaking (National Operator);
- National Company of Railways, CFR S.A– Infrastructure Manager; involved in charging, interoperability, safety, state aid, statistics
- Ministry of Transport, Construction and Tourism (MTCT), involved in separation, licensing, state aid, competition, public service obligations and statistics
- Romanian Railway Authority AFER, which is the technical special body of the MTCT, issuing licences for railway operators.
- National Society of Romanian Railways: Continues to exist as an autonomous entity, whose main task is the administration of debts that existed at the time of the restructuring of the railway sector;
- Society for the Railway Management Services SMF: Deals with financial and accountancy services, administration of the external credits and the provision of legal services.

1.1 Current organisations

1.1.1 Romanian Railway Authority - AFER

Organisation chart

NA

Income and expenses

AFER is a public office with legal structure, subordinated to the Ministry of Transports, Constructions and Tourism, entirely financed by extra-budgetary funds, functioning according to the regulations in force.

Number of employees

NA

Legal constitution

AFER is set up and is functioning according to the provisions of the Government Ordinance no.95/1998 on setting up public companies subordinated to the Ministry of Transports , amended by the Government Ordinance no. 21/30.01.2003 approved and amended by the Law no. 238/02.06.2003 and of the Government Decision No.626/1998 on the organization and functioning of the Romanian Railway Authority.

Clients

AFER is the specialized technical body of the Ministry of Transports, Constructions and Tourism, notified to ensure, mainly the state inspection and the safety control of the railway and subway transport, the railway register specific activity, the licensing of railway undertakings, the authorization and the technical survey of domestic suppliers of products and services in the railway field, the examination and certificates granting, in case, for the staff working in the field of the traffic survey, the investigation of the railway events and accidents.

Contact details for clients

Ministry of Transport, Construction and Tourism

Romanian Railway Authority - AFER

Calea Grivitei nr. 393, sector1, Bucuresti

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internet: www.aferr.ro

1.1.2 National Company of Railways, CFR S.A

The company was established in 1998, as Infrastructure Manager of the railway network of Romania.

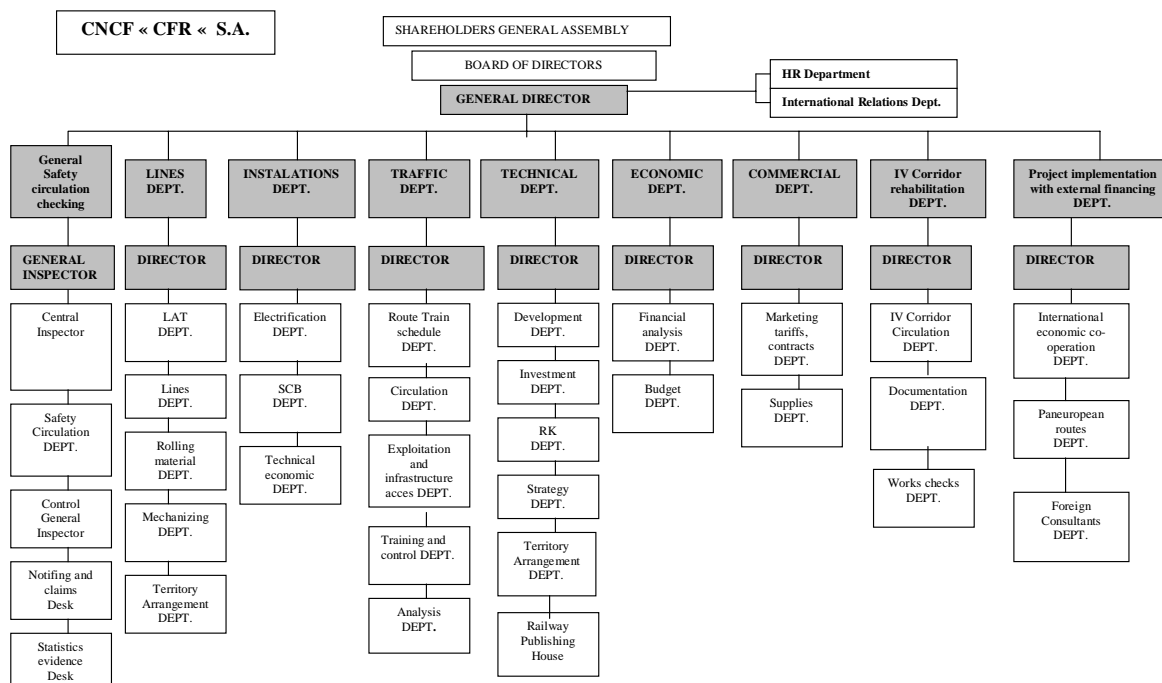
The CFR - SA National Railways Company is engaged in the national-interest public activity of railway transportation and in meeting the country's defence needs, with the following activities:

- management of the railway infrastructure and its availability for railway operators, according to the law;
- development and modernisation of the Romanian railway infrastructure in accordance with European standards, in order to secure compatibility and interoperability with European railway transportation systems;
- organisation, planning, coordination and control of administration, exploitation, maintenance and repairs on the railway infrastructure;
- management of auxiliary railway assets.

The company manages two types of infrastructure:

- Public infrastructure , such as main lines and marshalling yards, tunnels, viaducts, train control systems, on which it holds a 50 years concession from the Ministry of Transports;
- Private infrastructure, such as land, buildings, other lines and stations, which it owns.

Organisation chart



Income and expenses

Incomes : 12,420,283 mil lei /2002

Expenses : 14,492,116 mil lei /2002

Number of employees

41.448 (December 31, 2002)

Legal constitution

National Railway Company "CFR"-S.A. was established in October 1 1998, on the basis of Government Decision No 581/1998, through the reorganisation of National Company of Railways. C.F.R. SA represents Romanian juridical identity and has the status of commercial joint-stock company.

The initial capital of CFR is about 1.287.991.383 lei and is represented through taking over of one part of the patrimony of National Railway Company, on the basis of the balance of verification and the situation of patrimony, dated on June 30th, 1998. The initial capital is signed and integrally paid by the Romanian State, as the only shareholder that applies its rights and obligations through Ministry of Transport.

In 1999, the company's activity developed under proper conditions, with a major emphasis on maintaining the necessary safety levels in operation and achieving the desired economic and performance indicators.

Management

The CFR - SA National Railways Company is a commercial joint-stock company, a Romanian legal person, led by the General Meeting of Shareholders, with the executive control by the director general, who is also chairman of the Board of Administration.

The Company is managed by:

- A General Assembly of Shareholders (5 members) , appointed by the Minister of Transport, (1 from the Ministry of Finance , the rest from the MoT).
- An Administration Board appointed by the Minister of Transport, following the selection and recommendations made by the General Assembly of Shareholders.

Clients

- The infrastructure manager negotiates four years contracts with the Ministry of Public Works, Transport and Housing (Emergency Ordinance no 12/1998, Chapter VI). These cover the following issues:
 - The activities of the infrastructure manager to ensure adequate availability of the capacity, as well as with regard to maintenance, repair, modernisation, development, etc.
 - Financing and other commitments by the Government necessary for the good functioning of the rail transport system
- CFR-Infrastructure can negotiate with the various railway undertakings the level of fees for using the infrastructure;
- CFR-Infrastructure allocates the infrastructure capacity and issues the relevant timetables, on the basis of contracts between the infrastructure manager and railway enterprises;
- CFR-Infrastructure cannot act like railway operator;

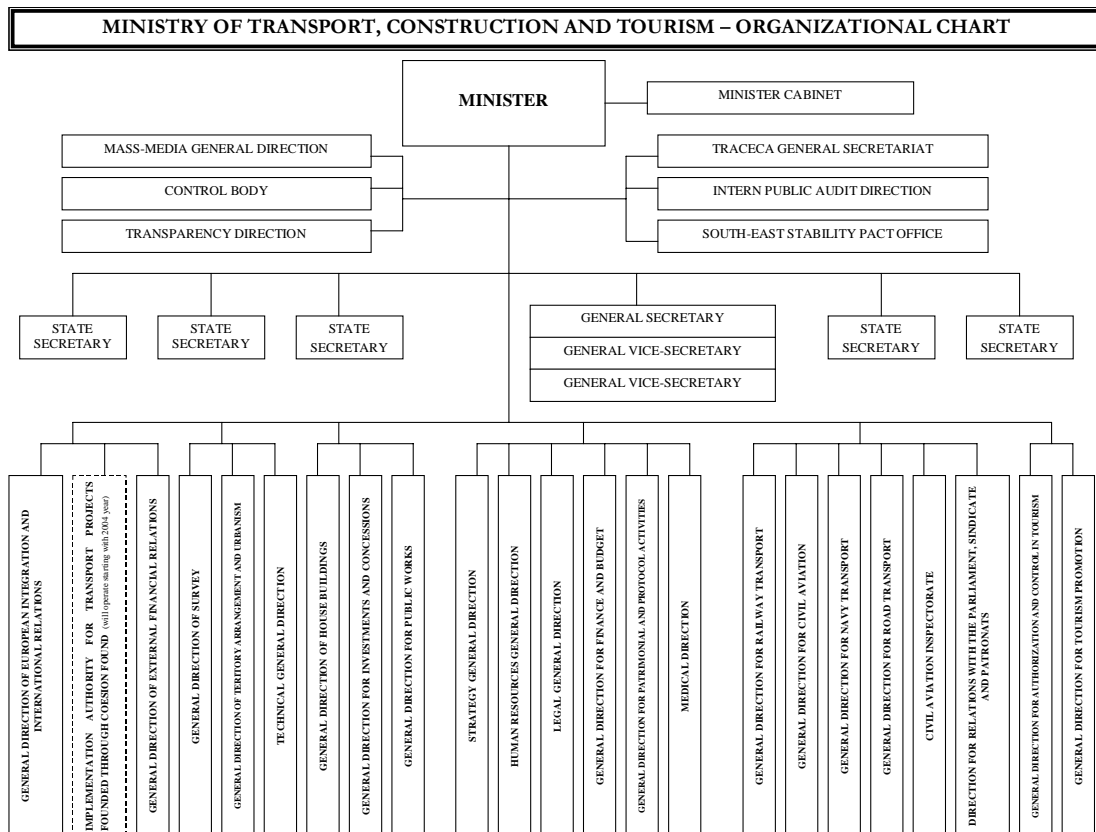
- CFR – Infrastructure is bound by instructions of the Ministry of Public Works, Transport and Housing and the Railway Authority (these instructions regard infrastructure development and maintenance, internal regulations, quality of railway service, etc.);
- CFR-Infrastructure provides information on the condition of the railway infrastructure to the operators and the Ministry and the Railway Authority;
- It is liable for all damages caused to the operators as a result of infrastructure fault;
- It is entitled to conclude agreements with other infrastructure managers (in other countries) for better exploitation of “international train paths”;
- CFR – Infrastructure calculates the charges for the use of the infrastructure and reports to the Ministry and collects the fees;
- It is responsible to apply all the TSI that are related to the interoperability of railway infrastructure;
- All operators that have a licence and safety certificates, have equal rights of access to the infrastructure;
- The State provides state aids to operate and maintain the infrastructure.

Contact details for clients

www.cfr.ro

1.1.3 Ministry of Transport, Construction and Tourism - MTCT

Organisation chart



Income and expenses

Income: 246.523.900.000 LEI (7.887.502 EURO / 1 EURO = 31.255 LEI, average exchange of the year)

Expenses: 292.270.800.000 LEI (9.351.169 EURO / 1 EURO = 31.255 LEI, average exchange of the year)

Number of employees

798

Legal constitution

State administration

M. Of. Nr. 14/10 Jan. 2001

Government Decision regarding the organisation and functionality of the MTCT

Clients

Following the provisions of the Government Decision no 3/2001, MTCT is the regulatory body that fulfils the following main duties:

- Ensure to all users free access, without making any discrimination;
- The setting of rail infrastructure charges to be approved by the Government;
- To conclude for the State contracts with CFR, and national an/or commercial societies that perform public passengers transport;

Contact details for clients

Ministry of Transport, Construction and Tourism

Bd. Dinicu Golescu 38

Bucharest 77 113

Tel.: 402 1 6385058

402 1 6387386

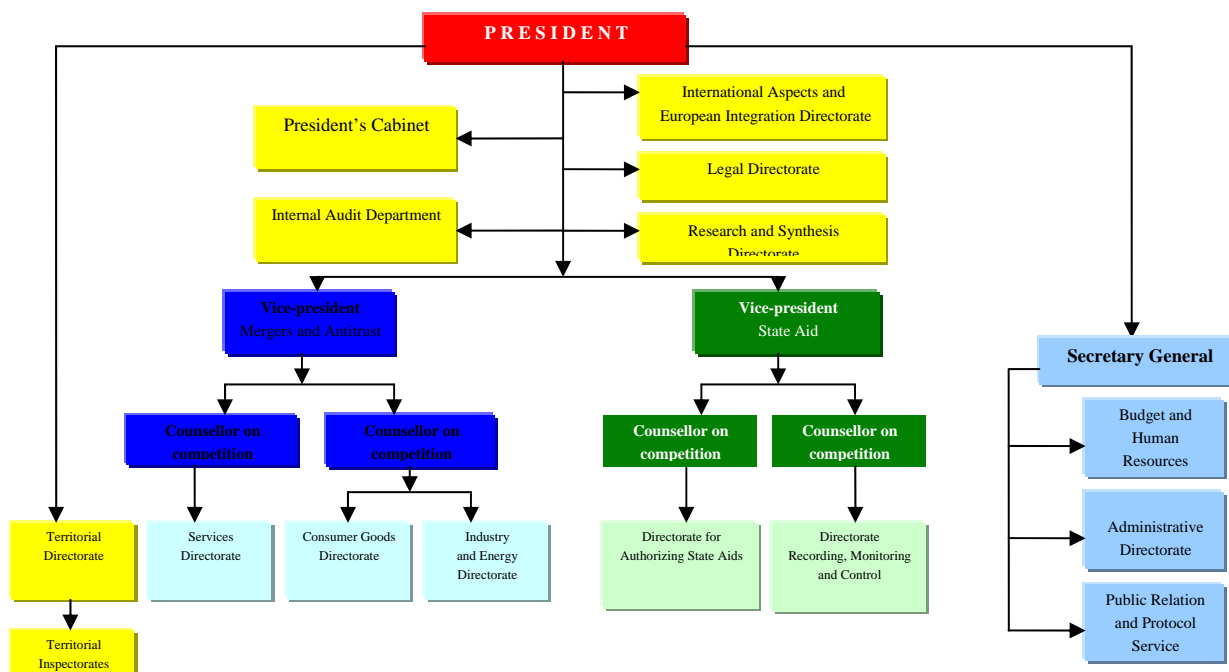
402 1 3130120

www.mt.ro

1.1.4 Competition Council

Organisation chart

The Council consists of 7 members: one president (with the rank of Minister), 2 vice-presidents (with the rank of Secretary of State) and 4 competition counsellors (with the rank of Deputy Secretary of State). The Council members are appointed by the President of Romania, pursuant the proposal of the Government.



Income and expenses

The Competition Council draws up its own draft budget, which is a distinct chapter of the state budget.

Number of employees

NA

Legal constitution

The term of mandate for the Competition Council members is 5 years, and they may be re-invested not more than once (according to the amendments of the Competition Law no. 21/1996, one vice-president and 2 competition counsellors have a 2-year and a half mandate only at the appointment of the first plenum).

The status of the Competition Council's members is incompatible with any other professional or consultancy activities, with the participation in the management or administration of other public or private entities, with holding public position or dignities, except didactic activity in the high-level education institutions.

Clients

The Competition Council was set up by the Competition Law No.21/1996, amended and completed by the Government Emergency Ordinance no. 121/2003.

The Competition Council represents Romania in the relationships with specialized international organizations and institutions and co-operates with foreign and community competition authorities. It is the reason why the Government designated the Competition Council to

coordinate the negotiation for Chapter 6 "Competition Policy" for the accession of Romania to the European Union.

The role of the Competition Council as an autonomous administrative authority has two aspects: one aspect is corrective relating to its interventions to restore and maintain normal, competitive environments, and a second, preventive aspect, related to its interventions that significantly prevent unfair competition on the market.

According to the Competition Law, the Competition Council is aimed at protecting and stimulating the competition, in order to insure a normal competitive environment and the promotion of customers' interests.

Contact details for clients

Piata Presei Libere, nr. 1, corp D1, Sector 1,
013701, Bucharest, OP 33

www.competition.ro

President	Mihai BERINDE	Tel: 223.1198, 223.1199 Fax: 223.4908, 222.2614
Vice-presidents:	Constantin CIUTACU	Tel: 222.2615 Fax 222.2617
	George MUSLIU	Tel: 223.0024, 223.0025 Fax 223.4910
Competition councillors:	Mihai GIUGARIU	Tel: 222.2645, 222.2631 Fax 223.1160
	Benedict SARBU	Tel: 222.2605, 222.2604 Fax: 223.1157
	Jozsef Nandor NEMENYI	Tel: 222.2645, 222.2631 Fax: 223.1160
	Nicolae SERDIN	Tel: 222.2605, 222.2604 Fax: 223.1157

1.2 Authorities required by the 2nd Railway Package

For the implementation of the Railway Safety Directive in Romania, the proper institutional structures will be defined, both at national and at local levels. From the existing "organisations",

- National Company of Railways, CFR S.A– Infrastructure Manager; and
- Romanian Railway Authority AFER

will be involved.

For the implementation of the Directive currently the proper legislation is going to be established to harmonise the Romanian Law with the new provisions and the definition of the proper process to follow the new needs.

It is envisaged that the national law will come into force in 2005.

2 ORGANISATION OF PUBLIC TASKS

2.1 Separation, licensing, charging and safety

Separation

The main actors in the railway market in Romania, i.e. the railway undertakings (among them CFR-Marfa and CFR-Calatori), the Infrastructure Manager (CFR) and the MTCT are fully independent.

They are all separate entities, with different roles, different management and business plans and different accounts. Their links and relations fully comply with the relevant provisions of the EU aquis.

Licensing

AFER is the technical special body of the MTCT issuing licences for new railway undertakings. The applicant operator must fulfil certain prerequisites such as to have registered the proper rolling stock, to have the right and trained personnel for the business, the required financial capacity, and in general, to be able to prove that it can operate efficiently, with safety, respecting all economic and social rules.

Charging

The maximum level of infrastructure charges is established in the contract between MTCT and CFR (GD 698/1999). Subject to this maximum level, CFR negotiates the infrastructure charges with the individual railway undertakings that want to use the infrastructure. The price should be according to the number of acquired slots, the sections of the network and the time of the journey. CFR provides railway infrastructure capacity on the basis of access contracts.

2.1.1 Investigation of accidents (2001/12)

Responsible organisation

AFER

Objectives, tasks and responsibilities

The main objective is to find out the causes of the accident, to take the necessary measures not to happen again and to impose penalties, if necessary.

Procedure

AFER elaborates evidence and statistics of railway accidents and events on the basis of reports. The statistics concerning railway accidents are supplied to the National Commission of Statistics by AFER.

Legal basis of procedure

National Railway Law

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

Responsible organisation

AFER is the technical special body of the MTCT issuing licences for new railway undertakings. Access to the Romanian rail infrastructure is provided on the basis of rail licence, safety certificates, specific conditions of infrastructure usage, national legislation and international agreements. Further conditions imposed to transport operators are the use of trained and authorised staff, assurance contract and the use of the proper rolling stock, in accordance with the technical standards of the infrastructure, the licence and the safety certificate.

Objectives, tasks and responsibilities

The main objective is to ensure the absolute safety of the rolling stock and the new operators. The safety has also to do with the technical specifications in relation to the infrastructure.

Procedure

The experts from AFER examine all the information provided by the applicant undertaking and accordingly judge.

Legal basis of procedure

National Railway Law

2.1.3 Licensing of railway undertakings (2001/13)

Responsible organisation

AFER is the technical special body of the MTCT issuing licences for new railway undertakings.

Objectives, tasks and responsibilities

To ensure the application of the relevant EU acquis.

To ensure that all the companies that have the right and the capacity to get a license will achieve it, without discrimination.

To ensure maximum safety levels in railway transport.

Procedure

The applicant operator must fulfil certain prerequisites such as to have registered the proper rolling stock, to have the right and trained personnel for the business, the required financial capacity, and in general, to be able to prove that it can operate efficiently, with safety, respecting all economic and social rules.

Legal basis of procedure

National Railway Law

2.1.4 Track access (2001/12)

Responsible organisation

MTCT

Objectives, tasks and responsibilities

The objective is to provide the right of access into the national railway infrastructure according to the existing laws, without discrimination, and with full compliance of all safety standards.

Procedure

MTCT has the following duties:

- To ensure to all users free access, without discrimination;
- To set rail infrastructure charges to be approved by the Government;
- To conclude for the State contracts with CFR, and national and/or commercial societies that perform railway transport;
- Grant on the basis if reciprocity access to foreign users;
- Establish rules for granting, suspending or withdrawing of licences and authorisations.

Legal basis of procedure

Government Decision no 3/2001.

2.1.5 Developing the capacity allocation framework (2001/14)

Responsible organisation

CFR

Objectives, tasks and responsibilities

The relevant services of CFR calculate the capacity for all the sections of the network for improved planning of railway business.

Procedure

The calculation of the capacity is made according to the international standards.

Legal basis of procedure

National Law, international standards

2.1.6 Publishing of capacity allocation framework (2001/14)

Responsible organisation

CFR

Objectives, tasks and responsibilities

Improved information to all parties on methodology used and the relevant results.

Procedure

Publication of specific tariffs on using the railway infrastructure.

Legal basis of procedure

National Railway Law

2.1.7 Setting of infrastructure charges (2001/14)

Responsible organisation

MTCT has the duty to set rail infrastructure charges to be approved by the Government.

The maximum level of infrastructure charges is established in the contract between MTCT and CFR (GD 698/1999). Subject to this maximum level, CFR negotiates the infrastructure charges with the individual railway undertakings that want to use the infrastructure. The price should be according to the number of acquired slots, the sections of the network and the time of the journey. CFR provides railway infrastructure capacity on the basis of access contracts.

Objectives, tasks and responsibilities

- To comply with the EU provisions;
- To ensure the optimum levels of charges in terms of efficiency of railway transport and infrastructure exploitation and maintenance. Environmental conditions are also taken into consideration.

Procedure

The maximum level of infrastructure charges is established in the contract between MTCT and CFR (GD 698/1999). Subject to this maximum level, CFR negotiates the infrastructure charges with the individual railway undertakings that want to use the infrastructure. The price should be according to the number of acquired slots, the sections of the network and the time of the journey.

Legal basis of procedure

National Railway Law

2.1.8 Collection of infrastructure charges (2001/14)

Responsible organisation

CFR Infrastructure

Objectives, tasks and responsibilities

The objective is the successful collection, in terms of the most efficient railway transport.

Procedure

Through the services of the CFR

Legal basis of procedure

National Railway Law, Internal Regulations of CFR

2.1.9 Publishing of charging framework (2001/14)

Through National Company Railway Infrastructure.

Responsible organisation

CFR

Objectives, tasks and responsibilities

Better information to all parties on methodology used and the relevant results.

Procedure

NA

Legal basis of procedure

National Railway Law

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

Responsible organisation

The first appeal must be against CFR, then, against the MTCT and then to National Courts.

Objectives, tasks and responsibilities

To avoid discrimination.

To ensure transparency.

Procedure

Submission of the contests at the responsible organisations.

Legal basis of procedure

National Laws

2.2 Interoperability

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

Responsible organisation

CFR

Objectives, tasks and responsibilities

Assurance of the interoperability with the European transports systems by adapting those technical parameters.

Procedure

Design of the “cahier d’echarge” at the European level standards.

Legal basis of procedure

EU acquis and national Laws

Minimal parameters AGC, AGTC

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

Responsible organisation

MTCT

Objectives, tasks and responsibilities

Transparency

Competence

Procedure

NA

Legal basis of procedure

National Law and EU acquis

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

Responsible organisation

CFR, AFER, MTCT

Objectives, tasks and responsibilities

NA

Procedure

Procedures accordingly with the quality systems.

Legal basis of procedure

National Railway Law and EU acquis

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

Responsible organisation

AFER

Objectives, tasks and responsibilities

Viability

Quality

Procedure

Auditing and certification of (sub) systems.

Legal basis of procedure

GOVERNMENTAL DECISION No. 626/24.09.1998 and international standards.

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

Responsible organisation

CFR

Objectives, tasks and responsibilities

Respecting the technical parameters initially imposed and updating them at a modern level.

Procedure

Permanent monitoring of technical parameters of systems and sub/systems running.

Legal basis of procedure

National Railway Law

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

NA

Objectives, tasks and responsibilities

NA

Procedure

NA

Legal basis of procedure

NA

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

Responsible organisation

NA

Objectives, tasks and responsibilities

NA

Procedure

NA

Legal basis of procedure

NA

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

Responsible organisation

NA

Objectives, tasks and responsibilities

NA

Procedure

NA

Legal basis of procedure

NA

2.3 State aid, competition and public service obligations

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

Responsible organisation

The Competition Council is the Romanian autonomous administrative authority on the competition field. The Competition Council represents Romania in the relationships with specialized international organizations and institutions.

Objectives, tasks and responsibilities

In conformity with the provisions of the Competition Law no. 21/1996, the Competition Council observes the enforcement of the legal provisions on anti-competitive practices (anti-competitive agreements and abuse of dominant position) and controls the economic concentrations (mergers and acquisitions) in order to protect, maintain and stimulate competition and a normal, competitive environment, with a view towards promoting consumers' interests. The Competition Council gives advisory opinion on the Government decision drafts that may have anti-competitive impact, and proposes amendments to the normative acts having such effects.

At the same time, the Competition Council gives advisory opinion on state aid policy and state aid schemes from the point of view of the possible effects on competition and controls the observance of these rules. According to the Law on State Aid no. 143/1999, the state aid represents any support, regardless of its form, granted by the State through State resources, granted by public institutions or any other bodies administering such resources on behalf of the State. The state aid may take the form of an aid scheme or individual aid. Any state aid, in any form whatsoever and regardless of its recipient, must be authorized by the Competition Council from the point of view of its effects on competition, save as otherwise provided by the State aid Law. A new state aid measure or changes to existing state aid may not be put into effect until the Competition Council has made a decision to authorize the state aid or until the aid is deemed to be authorized.

A state aid, other than an existent aid or aid that is exempted from the notification obligation, granted without the Competition Council' authorisation or granted after being notified, but before the Competition Council took a decision within the legal term limits, is considered an illegal one. An existing aid is an individual or it is a state aid scheme that either existed before the entry into force of the State aid Law or was authorised by the Competition Council or the Competition Council did not take, in the legal term, one of the decisions stipulated by the Law.

The process of legislative harmonization will continue in order to take over all EU rules on state aid area that can be enforced in Romania (ex. The rules on granting State aid for shipbuilding, the rules on State aid to short-term export-credit insurance). The Competition Council pursues the continuous evolution of the *acquis communautaire* in order to take over in the Romanian legislation the relevant provisions (for ex. regulations that will be adopted in the European Union in the field of general public interest services).

Procedure

The Competition Council attributions are:

- to take decisions for the cases of Competition Law infringements;
- to certify, following investigations requested by undertakings or associations of undertakings, and on account of the investigations and gathered evidences that there is no ground to intervene according to the Competition Law;
- to take decisions concerning the individual exemptions for agreements, decisions for partnership or concerted practices, decisions concerning the admission of economic concentrations;
- to carry out the effective enforcement of its decisions;
- to carry out, at its own initiative, investigations aimed at a better understanding of the market;
- to inform the Government about monopoly situations or other cases according to the law and to propose the measures deemed necessary to remedy the ascertained dysfunction's;
- to inform the courts on cases in which these are competent;
- to supervise the enforcement of legal provisions and other norms related to the object of the present Competition law;
- to inform the Government about the interference of central and local public administration bodies in enforcing the Competition law;
- to give advisory opinion on the draft normative acts that may have anti-competitive impact, and to propose amendments to the normative acts having such effects;
- to endorse state policy and the schemes of granting of state aids from the point of view of the possible effects on competition and to control that these rules are observed;
- to recommend to the Government and the local public administration to adopt measures facilitating the market and competition development;
- to propose to the Government and local public administration bodies, disciplinary measures against their staff for not observing the mandatory decisions of the Council;
- to draw up studies and reports on its field of activity, and to inform the Government, the public and the specialized international organizations about this activity;
- to represent Romania and promote information and experience exchanges in the relationships with specialized international organizations and institutions, and to cooperate with foreign and community competition authorities.

Legal basis of procedure

- The Competition Law No. 21/1996 (published in the Official Journal no. 88/30.04.1996, amended and completed by the Government Emergency Ordinance no. 121/2003, published in the Official Journal no. 875 from 10.13.2003)
- Law on State Aid no. 143/1999

2.3.2 Enforcing of competition (01/2003)

Responsible organisation

Competition Council

Objectives, tasks and responsibilities

Amending the Law on State Aid no. 143/1999 (in the first half of 2003) and the Competition Law no 21/1996 (by the end of 2003), the Competition Council benefits of a real power on efficient and effective enforcement of competition and state aid policy, on sanctioning the anti-competitive practices with the most important impact on the market, on analysing and prohibiting the granting of any state aid measure that run counter to Romanian legislation in force and to the relevant EU acquis.

Procedure

NA

Legal basis of procedure

Competition Law no. 21/1996

Law on State Aid no. 143/1999

2.3.3 Complaint handling related to competition (01/2003)

Responsible organisation

Competition Council

Objectives, tasks and responsibilities

Through Law no. 21/1996 and the secondary legislation issued in its application, Romania fulfilled the obligations of the Association Agreement between Romania and European Union regarding the policy in the field of competition ensuring thus a high degree of compatibility that refers to the way of approaching and regulating the agreements, concerted practices, abuse of dominant position and the control of the economic concentrations.

The legislation on competition policy followed in general the provisions of the Community legislation. The provisions of the art. 81 and 82 of the Amsterdam Treaty (including the Regulation no. 1/2003 on the application of these articles) have been taken over by the art. 5 and 6 of the Law no. 21/1996.

The provisions of the Regulation no.4064/1989 and no.3384/1994 of the European Communities' Council regarding the control of the economic concentrations were taken over by the Regulation regarding the authorization of the economic concentrations, adopted by Competition Council.

In the same spirit, Competition Council adopted other Regulations and Guidelines.

This Law is aimed at protecting, maintaining and stimulating competition to the benefit of consumers, and at creating the conditions to assess the behavior of economic agents based on uniform principles.

It must be specified the fact that this Law ensures the protection of competition, not of the competitors (protection of competition leads to advantages for consumers and for efficient companies, while protecting the competitors leads to inefficiency).

The incidence of the regulations is general and non-discriminatory. The Law is applicable to undertakings defined, broadly, as "individuals or legal entities - Romanian or foreign - irrespective of nationality or citizenship", irrespective of their organization form or the nature of their social capital. As well, the Law applies to bodies operating on the market, which influence directly or indirectly the competition.

The Law prohibits the anticompetitive practices that include the monopolist behaviors of the central and local public administration, to the extent in which they intervene:

- "any express or tacit agreements between undertakings or associations of undertakings, any decisions by associations of undertakings and any concerted practices, which have as their object or may have as their effect the restriction, prevention or distortion of competition on the Romanian market or on a part of it" and
- "any abuse of a dominant position held by one or more undertakings on the Romanian market or on a substantial part of it, by resorting to anticompetitive deeds, which have as an object or may have as an effect the distortion of commerce or the prejudice of consumers".

The Competition Law prohibits, as well, "economic concentrations which, having the effect of creating or consolidating a dominant position, lead to or are likely to lead to a significant restriction, prevention or distortion of competition on the Romanian market or on a part of it".

Starting with the principle of the general economic interest, which prevails, the Law grants exemptions on criteria that compare the anticompetitive effects with those in the benefit of consumer and the national economy, as regards both the accords and agreements and the economic concentrations.

It must be precised that not all agreements or concerted practices are, by themselves, illegal or generators of prejudices, some of them could benefit of exemptions from the prohibition provided as general rule, because they could contribute at the improvement of the production or distribution, at the promotion of technical progress, at the improvement of the products quality and the competitiveness degree of those on the internal and external market, at the strengthening of the competitive positions of SMEs.

We underline also the fact that having a dominant position on the Romanian market is not prohibited. The undertakings that have a dominant position on the relevant market, fall under

the provisions of the Law only if they abuse of this position through anticompetitive deeds that have as object or effect the distortion of the commerce or the consumers prejudice.

The economic concentrations, which may be achieved by merger or through a direct or indirect acquisition of control over one or more undertakings, are prohibited to the extent that they create or consolidate a dominant position and lead to or are likely to lead to a significant restriction, prevention or distortion of competition on the Romanian market or on a part of it. The economic concentrations may be authorized if, analyzing them pursuant to the criteria provided for in the Competition Law, they are compatible with a normal competition environment, and if the involved undertakings prove they fulfil cumulatively certain conditions such as: increase of the economic efficiency and of the competitiveness of exports, benefits for consumer through reduced real prices.

Decisions regarding anticompetitive practices and economic concentrations do not apply to undertakings whose turnover and share markets are under the level provided by the Law. There are excepted from this rule the anticompetitive practices that refer to prices, tariffs, agreements on sharing the market and auctions, which are considered to damage the competition environment, regardless their turnover or market share level owned by the involved undertakings.

The amendments and completions of the Competition Law no. 21/1996, by the GEO no. 121/2003, refer mainly to:

- Renouncing to the obligation to notify the agreements, decisions by associations of undertakings and concerted practices that frame within the exempted categories. Such practices are considered to be legal, without the obligation to be notified or to obtain a decision from the Competition Council, but the undertakings that invoke the benefit of a block exemption must prove the fulfilment of the conditions and criteria provided by Law.
- New regulations regarding the de minimis thresholds for anticompetitive agreements, but their level is lower than the one from the EU, ensuring thus a more rigorous control for observing the competition rules.

The normative act aims to make a difference between the conditions regarding the share market held by the involved undertakings that are competitors and the share market held by the involved undertakings that are not competitors, thus:

- "if the market share of the undertakings or the group of undertakings involved in the agreement, the decision made by an association of undertakings or the concerted practice does not exceed 5% on any of the relevant affected markets, for cases of agreements, the decisions made by associations of undertakings of concerted practices among competing undertaking; or
- "if the market share of each undertaking involved in the agreement, the decision made by an association of undertakings or the concerted practice does not exceed 10% on any of the relevant affected markets, for cases of agreements, the decisions made by associations of undertakings of concerted practices among undertakings which do not compete."
 - The increasing of the thresholds under which there is not mandatory the obligation to notify the economic concentrations, respectively the provisions regarding the

economic concentrations do not apply "where the aggregate turnover of the undertakings concerned does not exceed 10 million Euro and there are not at least two undertakings involved in the operation to achieve, each in part, on the Romanian territory, a turnover exceeding 4 million Euro."

- Deterrent fines for those that break the provisions of the Law.

The normative act provides "with a fine of up to 1% of the aggregate turnover of the financial year prior to the sanctioning", for contraventions provided by Art. 55 and "fines of up to 10 % of the aggregate turnover of the financial year prior to the sanctioning", for contraventions provided by Art. 56.

As well, the normative act provides the modification of the comminatory fines, which are "up to 5% of the daily average turnover of the financial year prior to the sanctioning, for each day of delay".

Procedure

The normative act gives competence to the Competition Council to establish through guideline conditions and criteria to apply a leniency policy, which may also exonerate from pecuniary liability.

- The promotion and sustain of the competition rules, including by normative acts that regulates other fields. Among the attributions of the Competition Council, there is also the one that refers to "issuing advisory opinion on the draft normative acts that may have anticompetitive impact, and to propose amendments to those normative acts having such effects."
- The obligation of the Competition Council to publish its decisions.
- Establishing special terms for the prescription of the competition authority right to apply sanctions for infringements of the Competition Law.
- Strengthening the administrative capacity through the existence of a single institution responsible with the enforcement of the legislation in the competition and state aid field.

Legal basis of procedure

Competition Law no. 21/1996

2.3.4 Evaluation of annual PSO claims (1191/69)

Responsible organisation

NA

Objectives, tasks and responsibilities

NA

Procedure

NA

Legal basis of procedure

NA

Other PSO issues

- *Nature of PSO contracts concluded for Railway Passenger Transport*

Public Service Obligation provisions of the Romanian Law¹ generally follow the Union's guidelines. More precisely, the legislation for railways² follows the provisions of the Regulation 1191/69 of the Council of 26.6.1969, as it was amended by Regulation 1893/91 of the Council of 20.6.1991.

The capital investment of the passenger operating companies is done through their own sources, own budget, loans obtained from banks in market conditions.

The obligation of social service is financed by the state through transparent subsidies.

- *Distinction between long distance and regional/urban transport*

The Law does not make any distinctions. The contracts take into account the nature of service, i.e. if it regards long distance or regional transport.

- *Contracting authorities*

The National CFR Passengers (CFR Calatori SA); however, the Law does not exclude any other railway company.

Central Government and any regional or local authority.

- *Contracting sum (total)*

In order to offer these services at social prices the transport operators are reimbursed the price difference with a minimum 3% profit margin by the central or local authorities. Any legally licensed company can operate activities of passenger railways transport under a concession agreement concluded with the Ministry of Transport. In order to meet the obligation of social tariffs the public authorities offer price compensations to these companies.

- *Length of the contract*

Not available

- *Public procurement procedures for award of PSO*

No

- *PSO market coverage*

Not available

¹ Constitution Law of Romania, art 119, Romanian Law no 215/2001 on public administration, Law on Public Services no 326/2001

² Government Ordinance no 12/1998

2.4 Statistics

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

Responsible organisation

MTCT

Objectives, tasks and responsibilities

- transparency
- better exploitation

Procedure

- Collect
- Report

Legal basis of procedure

GOVERNMENTAL DECISION No. 866/30.08.2001

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

Responsible organisation

CFR

Objectives, tasks and responsibilities

- Transparency
- Better exploitation

Procedure

- Collect
- Report

Legal basis of procedure

GOVERNMENTAL DECISION No. 1199/24.10.2002

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

Responsible organisation

MTCT

Objectives, tasks and responsibilities

- Transparency
- Better exploitation

Procedure

- Collect, with the co-operation of the railway undertakings and the Infrastructure Manager
- Report

Legal basis of procedure

National Law and EU acquis

3 TRAIN OPERATING COMPANIES

3.1.1 CFR Marfa S.A.

The National Company for Freight Railway Transport, "CFR Marfa"-SA was set up on the 1st October 1998, after the reorganization through division of The Romanian Railways National Company and has the status of a commercial company.

CFR Marfa is a company that develops its activities in the field of railway freight transport and combined transport. Its field of operations extends in Romania and abroad.

In this respect:

- CFR Marfa operates on the infrastructure of the Romanian Railways as a national railway operator;
- CFR Marfa is the owner of the private patrimony, owns autonomously the goods that are its property and benefits of the results from their use.

Besides its main strategy for strengthening its position in the market of rail freight transportation, CFR Marfa has established through its short- term strategy, the accomplishment of the following main objectives:

1. Setting up of branches for better managing specific activities such as:

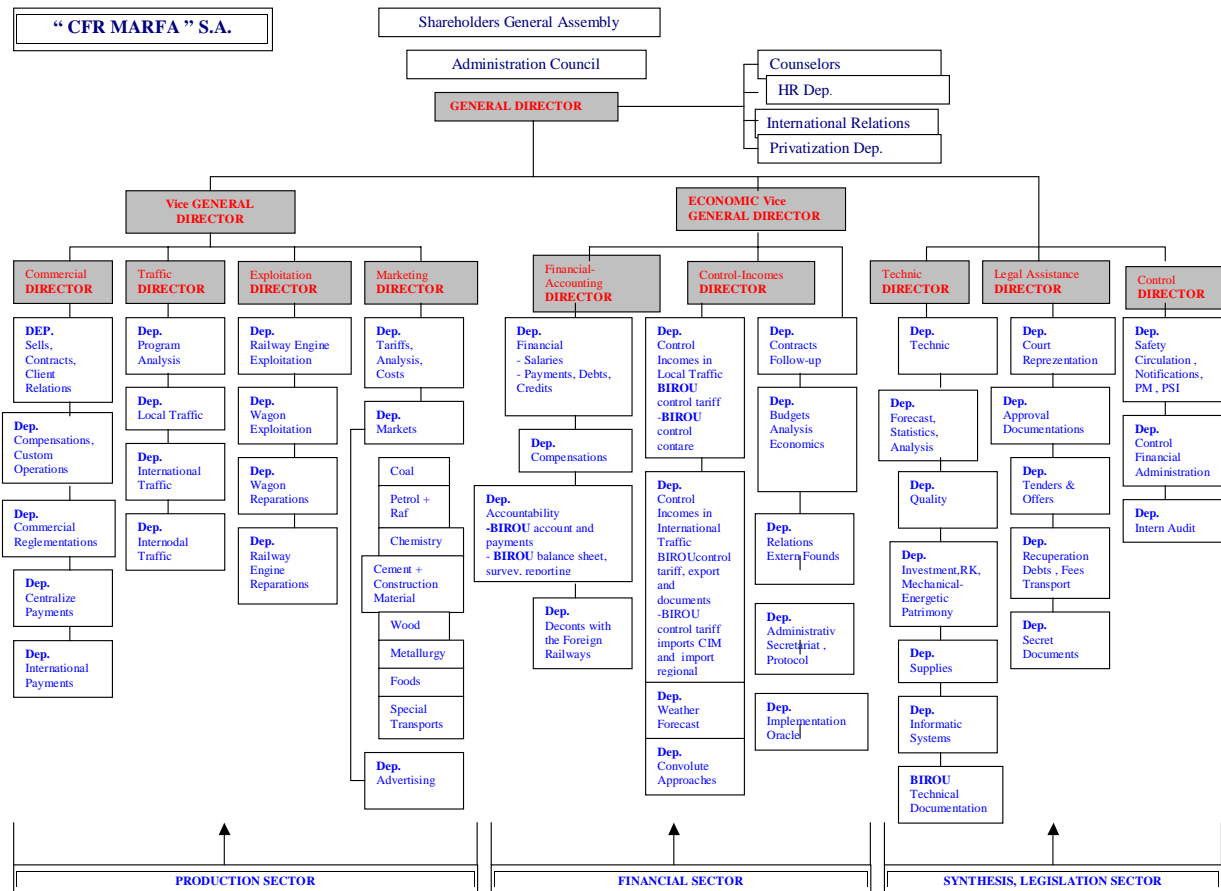
- washing, disinfections of the trucks of general usage and tank wagons;
- the transshipment of the goods from wagons of a railway gauge of 1,435 to wagons of a railway gauge of 1,520 and vice-versa;
- activation in the field of intermodal transport, and co-operation with the forwarding companies of this business' sector.

In the field of intermodal transport, CFR Marfa intends to attract private capital in a percentage of 49%, being able thus to make use of the external financing that the Ministry of Transports has at its disposal for the small and medium size enterprises.

CFR Marfa does own an internal network of specialized trains for performing the transport of containers of relative large capacity, that ensures the connection among the main cities of the country, with the possibility of dispatching the wagons directly to the railway station closest to the clients' residence or carrying the containers on lorries to and from the loading-unloading places, through The Trade Company for Road Operation and the Transport "CFR TRANSAUTO" - SA, branch belonging to the CFR Marfa.

2. Setting up of territorial commercial centres, in order to decentralise the decision structures through the implementation of competent decision makers at local level, that will positively influence the field of services and will bring more promptness in the decision making process.

Organisation chart



Income and expenses

Income: 18,826,892 million lei (2003)

Expenses: 18,553,048 million lei (2003)

Number of employees

30,703 employees (2003).

Legal constitution

The National Company for Freight Railway Transport, "CFR Marfa"-SA was set up on the 1st October 1998, after the restructuring of the railway sector in Romania, and has the status of a commercial company.

Its legal constitution was based on the provisions of the Governmental Decision no 581/10.09.1998 relating to the re-organisation of the Romanian Railways National Company, "CFR".

Management

CFR Marfa is managed by a Board of Directors, which consists of 11 members. There are members that are experts from the Ministry of Finance. The members of the Board of Directors

are elected by the General Assembly of the shareholders for a period of four years. The practical management of CFR Marfa is the main responsibility of the General Manager, who is also the Chairman of the Board of Directors.

According to the Law, CFR Marfa can be privatised and, in compliance to its provisions the Romanian State has the possibility to keep the majority of stocks.

The company has eight regional divisions. The decisions of infrastructure management are approved at the central level, on the basis of the proposals coming from the regional divisions.

Clients

- Separation: NA
- Licensing: NA
- Charging: NA
- Interoperability: CFR Marfa has the responsibility to apply all the TSI that are related to railway freight transport.
- Safety: CFR Marfa is responsible for all safety documents regarding its railway operations and its rolling stock
- Competition and public service obligations: CFR Marfa competes with other transport entities; it makes legal contracts with the State for freight business.
- Statistics: CFR Marfa keeps statistics records and regularly reports to the State, to the National Statistics Office and to all international organisations like European Commission, UIC, CER, etc.

Contact details for clients

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Financial manager	Mariana Prodan	mailto:mprodan@marfa.cfr.ro mailto:mprodan@marfa.cfr.ro
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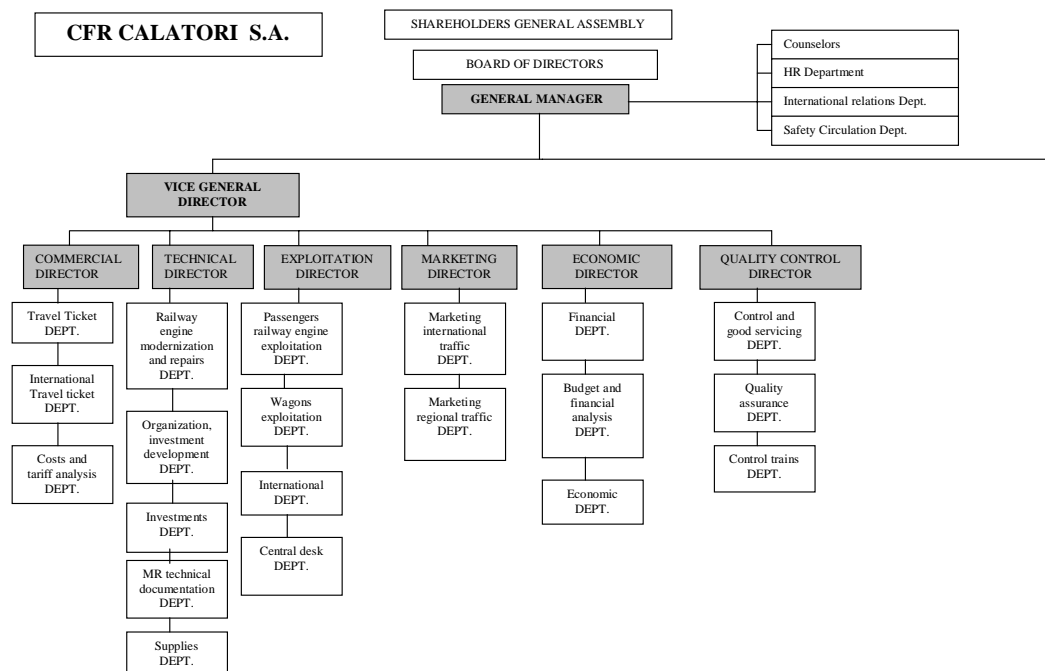
Autonomy of organisation

"CFR Marfa"-SA has the status of a commercial company. However, the company is 100% State owned, and it is managed by a Board of Directors, which is appointed by the Government. The tariffs of CFR Marfa are settled without State's interference.

3.1.2 CFR Calatori

The Company was established in 1998, as a railway undertaking, for passengers transport (National Operator).

Organisation chart



Income and expenses

Income: 14,408,169 million lei (2003)

Expenses: 14,378,472 million lei (2003)

Number of employees

17,532 (December 31, 2003)

Legal constitution

The National Company for Passengers Railway Transport, "CFR Calatori"-SA was set up on the 1st October 1998, after the restructuring of the railway sector in Romania, and has the status of a commercial company.

Its legal constitution was based on the provisions of the Governmental Decision no 581/10.09.1998 relating to the re-organisation of the Romanian Railways National Company, “CFR”.

Management

The Company is run by:

- a General Assembly of Shareholders (5 members) , appointed by the Minister of Transport, (1 from the Ministry of Finance , the rest from the MoT).
- An Administration Board appointed by the Minister of Transport, following the selection and recommendations made by the General Assembly of Shareholders.

Clients

The Ministry of Public Works, Transport and Housing negotiates four year contracts with passengers rail operators (Emergency Ordinance of the Government no.12/1998, Chapter VI). These contracts incorporate provisions with regard to:

- Main quantitative and qualitative goals to be achieved by rail passenger operators
- Social services that must be provided by the railway undertakings
- Responsibilities of the Government regarding the good functioning of the rail transport system, such as with regard to subsidies and compensations for public services.

Local authorities (or other legal persons) can negotiate contracts for additional services. Technical and economical objectives are also mentioned in the contracts.

Contact details for clients

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C.F.R. CALATORI S.A.**

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The main objective of the establishment of the national Society of Passengers Railway Transportation "CFR Calatori" S.A. was the need to concentrate on the market evolution and to satisfy its own needs regarding circulation safety conditions and comfort according to the established standards.

The character of public transportation and social service obliges the company to insure a minimum of transport capacities with all railway relations and to maintain tariffs within the limits defined as acceptable considering the degree of comfort offered.

Since the establishment of CFR Passengers, several market services have been defined for the three identified main market segments:

- Interregional traffic, covered by long distance trains, generally of superior class
- Regional traffic, around important urban centers, generally characterized by a reduced distance and by the need of frequent stops
- International traffic

These three departments permanently monitor the situation of the demand for transport and define the requirements of the railway traffic.

Autonomy of organisation

"CFR Calatori"-SA has the status of a commercial company. In its structure the railway company has full autonomy for introducing and withdrawing services, and entering into other economic activities. However, the company is 100% State owned and is managed by a Board of Directors, which is appointed by the Government.

Railway transport for passengers has a social public service character (Law 89/1999). Thus CFR-Calatori can only apply tariffs after the approval of the Ministry of Finance and the Ministry of Public Works, Transport and Housing. For its operation for public service obligation, CFR-Calatori receives from the State or local authorities the real costs of transport plus profits of 3-5% minus the revenues from the approved tariffs.

- Rail Infrastructure Company (CFR)

Total Network length (km)	11,380
- length of electrified operating lines (km)	3,971
- total length of railway track (km)	22,247
- total length of electrified tracks (km)	8,585
railway stations (number)	1,419
shunting yards (number)	21

- Passenger Rail Transport Company (Calatori)

Passenger traffic in millions		
Year	Passengers	Passenger Km.
2003	122.40	9290
2002	95.60	8501
2001	113.70	10966
2000	117.50	11631
1999	129.00	12303
1998	146.80	13421

- Freight Rail Transport Company (Marfa)

CFR Marfa-SA possesses a fleet of approximately 1000 engines (electric, Diesel-electric, and Diesel- hydraulic), a fleet of approximately 67,000 trucks structured on 23 different series (including narrow-gauge railway of 1,000 mm) and is endowed with two ferryboats with a displacement of 12,000 tdw each.

The main types of its Engine Fleet are as follows:

Electric engines of 5100 KW	354
Diesel-electric engines of 2100 CP	289
Diesel-electric engines of 1250 CP	261
Electric engines of 3400 KW	22

Freight traffic in millions		
Year	Freight tones	Freight tones Km.
2003	68.70	14647
2002	68.00	14867
2001	71.70	15902
2000	71.40	16326
1999	62.80	14658
1998	76.00	18582

These companies are fully owned by the state.

The three railway companies, CFR, Calatori and Marfa, own several subsidiaries which sell services for them and other purchasers. In the last years the Ministry has licensed ten private rail freight operators which share the use of the rail tracks and pay the charges to CFR. The private operators now have 10-15% of the rail freight market.

Freight operations

Complete ware trains commended or isolated ships traffic or UTI (Intermodal Unit Transports).
Ware's transport by using ferryboat.

Passenger operations

National and international passenger transport by using a big variety of trains or direct wagons, slipping wagons, etc.

3.2 Safety license

From The Romanian Railway Authority (AFER)

3.3 Market shares/transport volumes

Freight operations

68.70 tones (in 2003)

Passenger operations

122.40 million passengers (in 2003)

4 NGO'S

There are no user groups or any other special NGO's in the railway transport sector in Romania. The Patronal Union of Transportators is naturally keen on freight transport issues. Trade unions are also interested in rail transport issues in general.

5 FURTHER FACTS AND STATISTICS

General characteristics of Romanian public railway infrastructure

- Network length (km) - 11.380
- Length of exploitation electrified lines (km) - 3.971
- Total railway length (km) - 22.247
- Total length of electrified lines (km) - 8.585
- Network density (km/1000 s.km) - 48
- Double lines (%) - 23
- Electrified lines (%) - 42
- Railway stations (number) - 1.419
- Marshalling (shunting yard) railway (number) - 21
- Way apparatus (number) - 34.000
- Bridges (number) - 4.236
- Footbridges (number) - 14.531
- Tunnels (number/km) - 211/63
- Electrodynamic centralised installations in stations (number) - 633
- Substations of electrical wheel drive (number) - 76
- Energetic railway dispatcher (number) - 22
- Automate block line (km current line/km unfolding length) - 4226/7423
- Length of the lines equipped with automate line block (km) - 4.380, from which - 2.401 double way and - 1.979 simple way
- Simple switches (number) - 24.247
- Crossing (number) - 229
- Double crossing jontions (number) - 1.835
- Electric lines of low tension (number) - 18.170
- Telecommunication network (km) - 11.510
- Transported freights (million tones) - 105,0
- Passengers dispatched (million passengers) - 216,6.

Basic legal national railway frame

The basic legal framework for the railway infrastructure and operation includes a number of Governmental Decisions, mainly regarding the set up of the National Railway Companies and Authorities, the establishment of subsidiaries and the strategic development of the Romanian Railway System until 2010 (such as the Governmental Decisions No. 581, 582, 584, 585 and 626 of 1998). Moreover, a number of Legal Acts have settled manly technical aspects (e.g.: Order no. 538 of the Ministry for Public Works, Transport and Housing for the approval of the Compulsory Inspections System for Safe Operation of the ro-ro ferry passenger ships and scheduled high speed ships, Order no. 891 of the Ministry for Public Works, Transport and Housing establishing several rules regarding the transport of dangerous goods by rail, etc.). In

addition and according to the programming documents related to the obligations undertaken by Romania in the accession process to the European Union, a number of 824 legal acts having EU relevance were published in the Official Journal in the year 2003, of which 413 legal acts directly transpose the *acquis communautaire* corresponding to the negotiated chapters and to the commitments assumed. The adoption of these legal acts has led to the harmonization with the Community legislation within important areas of activity (e.g.: Government Decision no. 1533/2003 on the interoperability of the high-speed rail system)

6 GRAPHICAL OVERVIEW

