

Press Release
Brussels, 28 February 2013

EU legal framework does not require institutional separation between rail infrastructure manager and incumbent operator

Today, the European Court of Justice (ECJ) delivered its judgments on infringement actions brought against four member states concerning rail transport by the European Commission. The Court declared that Spain and Hungary have failed to fulfill their obligations under EU law in that field. However, for the cases concerning Austria and Germany, the ECJ does not support the European Commission's applications and considers that the First Railway Package (former Directive 91/440; now Directive 2012/34) does not require member states to have in place an institutional separation between the infrastructure manager and the incumbent operator. The Community of European Railway and Infrastructure Companies (CER) welcomes these important judgments which will shed a new light on the debate in the framework of the current adoption of the Fourth Railway Package.

According to the ECJ, the Recast Directive allows Austria and Germany to integrate both infrastructure manager and incumbent operator in a single holding company. The ECJ also rejects the Commission's arguments that Germany failed to fulfill its obligations regarding the fixing of charges and the implementation of a system limiting infrastructure costs and reducing the level of access charges. In those circumstances, the Commission's actions have been dismissed.

CER Executive Director Libor Lochman said: *"We will closely analyse the complete Court ruling. In any case, we can already say that the Court decision confirms what CER has been saying about separation requirements for a long time, also in the context of the Recast of the First Railway Package. This is also an important signal in relation to the Fourth Railway Package. We are firm in our view that member states should retain the responsibility for reforming their rail systems on the basis of factual economic evidence."*

Notes to the editor:

The press release of the ECJ can be found [here](#).

CER's position on the Fourth Railway Package can be found [here](#).

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The Community of European Railway and Infrastructure Companies (CER) brings together 80 European railway undertakings and infrastructure companies. CER represents the interests of its members towards the European institutions as well as other policy makers and transport actors. CER's main focus is promoting the strengthening of rail as essential to the creation of a sustainable transport system which is efficient, effective and environmentally sound. For more information, see www.cer.be

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