



*The Voice
of European
Railways*



**SOCIAL DIALOGUE
in the new EU Member States**

and

EUROPEAN SOCIAL DIALOGUE

RAILWAY SECTOR

Information Seminars in Budapest and Bratislava
(Hungary, Slovenia, Slovakia, Czech Republic, Poland)



With the support of the European Commission

TABLE OF CONTENT

Foreword

Part 1: Introduction

Part 2: Social Dialogue in the European Union

2.1 General introduction into the European Social Dialogue

2.1.1 History of the European Social Dialogue and its role

2.1.2 The European Social Dialogue in the Treaty

2.1.3 The European Social Partners

2.1.4 Principles and elements

2.1.5 Forms of European Social Dialogue

2.1.6 Social policy domains

2.2 European Social Dialogue in the rail transport sector

2.2.1 The Social Partners

2.2.2 European Social Dialogue in the rail transport sector

2.3 The future of the rail transport social dialogue

Part 3: Social Dialogue in the rail sector in the new Member States

3.1 Introduction

3.2. Country reports

3.2.1 Hungary

3.2.2 Slovenia

3.2.3 Slovak Republic

3.2.4 Czech Republic

3.2.5 Poland

Part 4: Conclusions: Social Dialogue - a key to better governance

Annex I: Different models of workers' representation

Annex II: Different levels of social dialogue

Annex III: List of participants



FOREWORD

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The European social model places great emphasis on the need for social dialogue. Both bipartite and tripartite dialogue contribute to better cohesion and to building consensus by stimulating cooperation between different levels of industrial relations players, which helps to develop trust and mutual understanding.

The European Union's recent and largest ever enlargement presents a challenge for the European social dialogue. As it will increase the diversity of industrial relations traditions in Europe and will place greater emphasis on the contribution of industrial relations to the management of change. Against this background, it will be important to strengthen social partner capacities in an enlarged Union. The European social dialogue can make an important contribution in this context.

As the social partners are autonomous, capacity-building is essentially a bottom-up process depending on the efforts of the social partners themselves. The European social partners in the rail transport sector have undertaken a valuable initiative by organising two information seminars gathering participants from across the enlarged EU. These seminars were aimed at improving the social partners' knowledge of their counterparts, holding an exchange of views on the work of the European social dialogue in the sector, increasing the participation of the new Member States in the European social dialogue and identifying the social partners' needs after enlargement.

The purpose of this publication is to summarise the debate and the very rich information gathered during the two seminars. It will serve as a useful tool for social partners in all the Member States, providing them with the basic information they need on the European social dialogue in the rail transport sector, in which the social partners from the new Member States will, from now on, take part on an equal footing.

Brussels, November 2004

1. INTRODUCTION

The European Social Partners in the railway sector organised in 2004 two information meetings on the European sector social dialogue with the social partners from five new Member States. These meetings took place in Budapest with the participation of the railway social partners from Hungary and Slovenia and in Bratislava with the participation of the social partners from Slovakia, Czech Republic and Poland. The seminars were a joint initiative of the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) undertaken with the financial support of the European Commission.

The seminars reviewed the framework of the European and the national social dialogues as well as the functions and role of the Social Partners in the new Member States and at European level.

They were divided in three parts.

The first part was a presentation of the railway business and of the sector social relations in the new Member States by the two sides of industry, company management and trade unions. This part included separate meetings of the employers and the trade unions which they could use for an exchange of views and experiences along their own priorities.

The second part was a joint meeting of the social partners to allow a presentation of the objectives and activities of the European sector social dialogue presented by the European Commission and by the European social partners.

The seminars were concluded in the third part by a round table discussion grouping together representatives of the European Commission, the European social partners and the national social partners. The importance of the European Social Dialogue for the further integration of the sector was the subject of the round table discussions.

The organisation of the Information Seminars was guided by the following four objectives.

- better mutual knowledge of the European and national social partners;

- discussion among the social partners about the work of the European social dialogue in the railway sector,
- reinforcement of the participation of the social partners of the new Member States in the European social dialogue and
- identification of expectations and needs of the social partners in the new EU Member States.

The social dialogue is a process of continuous interaction between the social partners with the aim of reaching agreements on the control of certain economic and social variables, at both macro and micro levels. European sector dialogue enables the social partners to play a dual role. Firstly, they fulfil a watchdog function by making their concerns known to the Commission and the Council. Secondly, they provide a forum for the exchange of ideas and dialogue between the social partners.

The sector social dialogue has generated a large number of joint texts – representing the culmination of a co-operation process and a process of negotiation between the social partners. They take the form of joint opinions, declarations, resolutions, guidelines, codes of conduct, agreement protocols and proper agreements. Under the social dialogue system, the social partners can take a wide variety of initiatives.

Activities and outcomes of the railway European social dialogue have emphasized the importance of social dialogue. Social partners at European level have already learned from each other better, have exchanged opinions and ideas and have dealt with common issues. These experiences revealed the commitment to support and strengthen the various forms of social dialogue in the new Member States and to integrate the partners in the European Social Dialogue. The joint seminars and discussion forums were an important tool to empower all, to fulfil the commitments and to create new relations between traditional partners under a new framework.

The present report synthesizes the debate in order to be consulted as a sort of pocket-book of the social European dialogue in the railway sector.

2. Social Dialogue in the European Union

2.1 General introduction into the European Social Dialogue

2.1.1 History of European Social Dialogue and its role

The European Social Dialogue started around 1985 with the so-called “Val Duchesse” process, when former Commission President Jacques Delors encouraged European employers’ and trade union organisations to enter into an autonomous dialogue at European level on strategies for growth and employment.

The European Social Dialogues gained more importance with the second and third major change of the European Treaty, the so-called Treaty of Maastricht (1992) and the Treaty of Amsterdam (1997). Since then the European Social Dialogue is institutionalized and additionally to consultation of social partners on social initiatives and legislation at Community level the instrument of negotiating agreements at European level was introduced (Articles 138 and 139 of the Amsterdam Treaty).

In 1998 the European Commission decided to give more emphasis to the sectoral social dialogue at European level and introduced the possibility to establish Sectoral Social Dialogue Committees on the joint request of the European Social Partners. Those Sectoral Dialogue Committees replaced the former Joint Committees which existed for example for the railway sector since 1972. Nowadays there are 30 Sectoral Social Dialogue Committees.

The so-called Lisbon strategy, adopted by the European Council in Lisbon in 2000 stated that social dialogue at all levels could contribute in an effective way to the challenges identified and could promote a balance between competitiveness and solidarity and flexibility and security.

In *December 2000 the European Council in Nice* contended a social policy agenda. Three big parts determined and interacted positive the social policy: social policy with social quality and social cohesion, economy policy contends competitiveness and dynamism and the employment policy contends full employment and quality of work. The policy is mixed to be established to create a virtuous circle of economic and

social progress should reflect the interdependence of these policies and aim to maximise their positive reinforcement. Europe is becoming most powerful dynamic. Four instruments were explained to achieve the objective with more quality, the legislation, the European social dialogue, a financial instrument the European Social Fund (ESF) and other open methods of coordination's.

At the Laeken and Barcelona European Councils and the preceding social summits, the Heads of State or Government, the social partners and the Commission emphasised the role of the social dialogue at all levels in promoting modernisation and change within the Union and in the new member states.

The Social Dialogue and the quality of industrial relations are regarded as being at the centre of the European social model.

In 2002 and 2004 the European Commission published two Communications on the European Social Dialogue with the aim to analyze and strengthen the European Social Dialogue.

2.1.2 The European Social Dialogue in the Treaty

The social dialogue has a strong institutional recognition within *the European Treaty*. According to **Article 138** of the EC Treaty the European Commission has the responsibility to promote the consultation of social partners at Community level and to take every useful measure to facilitate their dialogue. The Commission shall consult social partners, taking care to ensure a balanced support of both sides.

Before submitting a Community proposal in the social policy field the Commission has to consult the social partners on general orientation of a possible Community initiative / legislation (1st phase consultation). If the Commission still wants to propose this Community initiative it has to make a second consultation of the social partners on the concrete content of this initiative (2nd phase consultation).

Within the 2nd phase consultation the social partners can jointly declare that they prefer negotiations among social partners (Article 139 procedure) and to find a

solution at this level instead of a draft legislation proposed by the European Commission.

Article 139 of the EC Treaty says that Community level social dialogue between the social partners can lead, if they wish, to contractual relations, including agreements as a result of collective bargaining. Agreements shall be implemented either in accordance with social partners or member states procedures and practices or by a Council Decision. In the second case the agreement is transformed in EU legislation and applies to the whole industry or a sector.

2.1.3 The European SOCIAL PARTNERS

European social partners are different organizations at the different social dialogue levels:

At general *cross-industry level* the social partners are cross-industry organizations representing all categories of workers or undertakings: UNICE and CEEP as employers' organizations, ETUC as trade union organization. They work together with other organizations like CEC, Eurocadres or UEAPME.

At sectoral level sectoral organisations are representing employers (e.g. CER, AEA, POSTEUROP, COPA, HOTREC, FBE...) and workers (e.g. ETF, ECA, EFFAT, UNI-Europa Finance...).

To be recognized as a European social partner some criteria have to be fulfilled: The organizations shall be organized at European level, consist of organizations which are themselves an integral and recognized part of Member State's social partner structures and have the mandate and capacity to negotiate agreements.

Also they should have adequate structures to ensure their effective participation in the work of the European sectoral social dialogue committees.

The formal recognition as a European Social Partner is based on the principle of mutual recognition. All partners involved in the dialogue have to recognize each other as partners.

The question of representativity of European social partners is of relevance when a social partner agreement shall be implemented by Council Decision. In this case the signing organizations have to sufficiently represent the workers falling within the scope of the agreement.

2.1.4 Principles and Elements

The European Commission commits itself to strengthening the *sectoral dialogue* by supporting to make it more effective, orientating activities to dialogue and negotiation, improving monitoring and implementation and tightening links between European and national social dialogue.

From a Commission's point of view the following three *principles* shall *promote and facilitate European social dialogue*:

Respect of the **autonomy** of the social partners (bipartite social dialogue) and to provide a balanced support for both parties. Each Social Dialogue Committee establishes its own rules of procedure, joint work programs and they select their instruments like agreements, codes of conduct, guidelines, recommendations or joint declarations.

The social dialogue shall be **transparent**. This is specifically important when social partners are formally consulted on EU initiatives or negotiate agreements to be implemented by Council Decision. This principle is part of good governance.

Jointly working together is **voluntary** and the partners decide on a voluntary basis whether they come to agreement. But on the other hand the social partners are key actors in a process of change, reform and decision making process within their sector and their agreements could be standards for the European Union. Negotiations between the social partners are the most suitable way forward on questions related to modernization and management of change.

Along the lines of the initiatives developed successfully by the social partners, the social dialogue can help to establish at European level a favorable climate for improving competitiveness, innovation and social cohesion.

2.1.5 Forms of the European Social Dialogue

Tripartite Dialogue

The Tripartite dialogue at European level is a meeting of high level representatives once a year. This meeting is called the 'Tripartite Social Summit for Growth and Employment'. The partners are the cross-industry social partners (ETUC, UNICE, CEEP), the European Commission and the Council Troika (Council presidency and two subsequent presidencies).

Tripartite dialogue takes place in four fields:

- macro economic issues,
- employment issues,
- social protection issues,
- education and training issues.

Bipartite Dialogue

European bipartite social dialogue takes place at three levels:

1. The so-called 'Val Duchesse' social dialogue is the cross-industry social dialogue at European level between cross-industry employers and employees representative (UNICE, CEEP, ETUC).

2. The '*Sectoral dialogue committees*', established on the basis of Commission Decision no. 98/500 EC from 20 May 1998, with the social partners organization representing different industry or service sectors. 30 social dialogue committees have been set up at the joint request of the social partners in the different sectors since 1998.

3. European social dialogue at company level is practiced in the European Works Councils. Today there are about 650 European Works Councils.

2.1.6 Social policy domains

Social dialogue at European level can intervene in almost all areas of the social policy comparing to other potential actions.

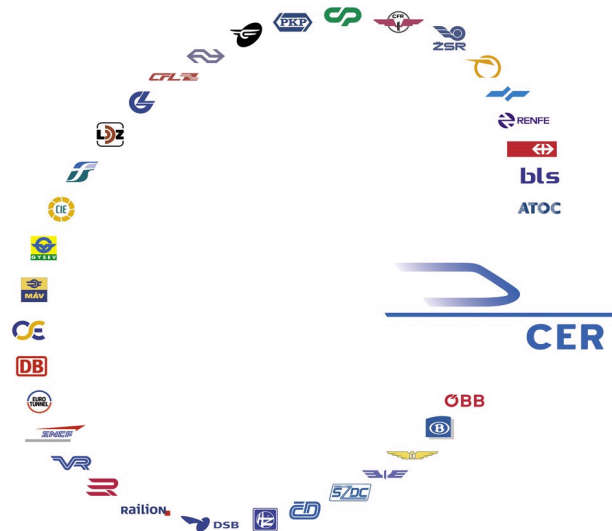
The Lisbon strategy emphasises its role in addressing key challenges facing Europe, such as:

Potential action	Legislation	Social dialogue	Open method of coordination	ESF
Domains				
Free movement of workers	XXX	X	X	
Working conditions, including information and consultation	XXX	XXX		
Health and safety at work	XXX	XXX	X	
Gender equality	XXX	XX	X	
Discrimination	XXX	XX	X	
Employment		XX	XXX	XXX
Social protection	X	X	XXX	
Social inclusion		X	XXX	X
Education and training		X	XXX	XXX
Industrial relation systems		XXX		

Regarding agreements according to Article 139 the field of activities of the European social partners is limited. For example wages or the “right to strike” are excluded areas for negotiations between European social partners.

2.2 The European Social dialogue in the railway sector

2.2.1 The Social Partners in the railway sector



The Community of European Railways and Infrastructure Companies(CER)

The Community of European Railway and Infrastructure Companies (CER) brings together 36 members from the 25 EU Member States plus Norway, Switzerland, Romania, Bulgaria and Croatia. Those companies employ altogether about 1,25 Million railway workers.

The CER is a non profit organization, recognized by the European Commission as the representative social partner organization for the railway sector at the employers' side. It has full capacity to apply with the role given to social partners by the treaty: Consultation on legislative proposals according to Article 138 and negotiation of agreements on e.g. working conditions for the whole sectors according to Article 139. The CER is committed to European Social Dialogue.

The CER deals with all policy areas of significance to railway transport and offers advice and recommendations to policy makers in Brussels.

CER works in close collaboration with the Paris-based UIC.

The CER Organization

The CER is a small team with one Executive Director (Dr. Johannes Ludewig), a deputy Executive Director and 16 staff members assigned to management, core functions, additional functions and horizontal functions within the organisation.

The CER Management Groups consist of permanent groups and assemblies that are the Steering Committee, the CER General Assembly, the CER Management Committee and CER Group of CEO Assistants.

Working groups are depending on EU developments and the EU timetable, for example the Freight Focus Group, the Passenger Working Group, the Infrastructure Working Group, Cooperation – Competition Group or the Customs Group.

Ad hoc working groups are formed in the case of urgencies and come together, sometimes at rather short notice.

Rail Transport Policy and Political Progress

CER supports the overall aims and objectives of EU transport policy, notably as set out in the Commission's 2001 White Paper: in particular, that legislators have recognised the strategic contribution rail has to make to a reshaped transport policy based on sustainable development.

Rail infrastructure capacity - and particularly the backlog of investment - is the top priority issue for the EU's transport policy objectives. CER welcomed the political progress in April 2004 on the revision of the Trans-European Transport Networks, with 22 of the 30 priority projects related to rail, and supports the Commission in its efforts to tackle the headache of funding.

The Second Railway Package was an important step forward in 2004 for railway market conditions. Railway companies are already competing with each other, as well of course as with other transport sectors. The freight market will be completely open in January 2007, and the Railway Agency will start work in 2005 on its crucial mission of safety management harmonization and interoperability development.

Experience has shown that opening the market to competition, together with properly defined and funded obligations on public service contracts and the right treatment of historic debt, can have a positive influence on market behaviour – as long as

increasing rail traffic and limited rail infrastructure capacity are not creating new quality problems.

The Third Railway Package is only partially relevant to defining framework conditions, with the development of international passenger service liberalisation as envisaged in the Second Package; and the proposal for train crew certification at a European level (which CER believes should be based on the 2004 driver licensing agreement with ETF) . The other elements in the package – the proposed regulations on freight contract commitments and on international passenger rights – are much less important and helpful. The inherent notion that service quality can be ‘regulated into place’ conflicts with the general policy of competition in an open market.

As well as railway-specific legislation, CER is seriously concerned with related legislation such as the ‘Eurovignette’ Directive on road freight charging. The present blockage in the Council has to be resolved to improve the balance between modes. Finally a new proposal on Public Service is now expected from the Commission.

The European Transport Workers’ Federation (ETF)



The European Transport Workers’ Federation (ETF) represents transport workers from all transport modes and fishermen. The ETF members are 209 transport trade unions from 38 European countries, which organize about 3 million transport workers.

The ETF is the recognized European social partner in 6 European sectoral Social Dialogue Committees. With the exception of the Social Dialogue Committee in the civil aviation sector, ETF is single workers' representative in the European Social Dialogue in the transport sector. The ETF Constitution provides the organization with the capacity to sign agreements as European level.

The ETF transformed in 1999 into a pan-European organization. Before, it organized trade unions only from EU and EFTA countries. ETF is member of the European Trade Union Confederation (ETUC) and the European regional body of the International Transport Workers' Federation (ITF).

ETF structure and organization

The ETF governing bodies at horizontal level are the Congress, the Management Committee and the Executive Committee.

The sector related practical work is organized in the so-called Sections. ETF has 7 Sections: Road Transport Section, Railway Section, Maritime Section, Inland Waterways Section, Civil Aviation Section, Dockers' Section and Fishery Section. Additionally to the sections ETF established two permanent Committees: The Urban Public Transport Committee and the Women's Committee.

The different Sections act autonomously within the ETF in accordance with the general ETF policy. They decide on their own work program and are responsible for the political decisions and positions related to the respective transport sector.

The ETF employs a small team with 11 staff members, a General Secretary (Doro Zinke), 5 Political Secretaries (for the 7 Sections, the two Committees and a Coordinator for Central and Eastern Europe), 2 assistants and 3 staff members in administration and accountancy.

The ETF Railway Section

The ETF Railway Section represents 72 trade unions from 33 European countries, which organize about 900 000 railway workers.

The Section elects every four years its President, two Vice-presidents and a representative of women railway workers.

The Railway Section is meeting twice a year in a plenary meeting of all railway trade unions. Between those plenary meetings the Bureau (President and Vice-presidents) is the decision making body. The Section decisions and activities are prepared in two permanent working groups on "Railway policy" and "Social Dialogue". Ad-hoc working groups are formed according to the need.

Activities

The activities of the Railway Section, which are similar in all ETF Sections, are based on four pillars:

- Influencing sector related EU legislation;
- Social dialogue;
- Organizing European industrial actions;
- Organizing solidarity among transport workers across Europe

Influencing EU legislation is an important part of the ETF activities as the transport sector is one of the most regulated sectors at European level. About 10 % of EU legislation (acquis communautaire) is transport legislation.

The ETF Railway Section is dealing for example with the three EU Railway Packages, the Directive on interoperability of the conventional railway system, the draft Regulation on public service obligations in passenger transport, the so-called 'Eurovignette' Directive or the Green and White Paper on Services of General Interests.

The European Social Dialogue as an integral part of the European model is of high political importance for the ETF and the ETF Railway Section.

2.2.2 European Social Dialogue in the Rail Transport Sector

European Social Dialogue in the rail transport sector has a long history. In 1972 the so-called *Joint Committee for the railway sector* was founded on the initiative of the European Commission and its members were nominated by the European Commission on the proposal of the Social Partners. The Joint Committee was at that time rather a consultative body than a real social dialogue. However, the European Social Partners used this Joint Committee to develop an active dialogue and used the possibilities given by Treaty of Maastricht to the sectoral social dialogue since 1992.

In 1999, on the joint request of the social partners CER and ETF, the *Sectoral Social Dialogue Committee for the railway sector* was founded. This was a requirement from the Commission's Decision 98/599 which replaced the former Joint Committees by Social Dialogue Committees. One of the main differences to the former Joint Committee was the fact that no longer the by the Commission nominated members are the social partners but the recognized European organisations.

The Structure of the European Social dialogue for the railways

The Social Dialogue Committee for the railway sector has 20 members each side. This number was extended to 25 members each side since enlargement of the European Union. The Committee is meeting once a year in a **Plenary** meeting.

The **Steering Committee** is composed of four representatives at each side and the European Secretariats. It prepares the agenda of the Plenary meeting. The Social Dialogue Committee for the railway sector has **two permanent working groups**, the Working Group I (Adaptability, interoperability, working conditions, train driver license) and the Working Group II (Employability, training, equality between men and women, disabled persons). The Social Dialogue Committee adopted Internal Rules in order to organize its functioning. However, in daily practice it follows an flexible approach and uses its structures according to the needs.

The work program and the outcome

Every year the Committee adopts a work program. The work program follows actual developments in the sector. It is extending due to the fact that the railway social dialogue gained in importance and recognition by including formal consultation of the social partners within sector related legislation (Technical Specifications Interoperability, European Railway Agency proposals) in the recent years.

In general the work program contains the following points:

- Information and consultation on EU railway legislation (tripartite part of the dialogue);
- Joint positions on EU railway legislation if common points could be identified;
- Negotiations (in 2003), implementation and follow-up of the two agreements;
- Formal consultation on interoperability (Mixed Group with AEIF);
- In future formal consultation on the European Railway Agency activities;
- Joint projects (in 2004: Better integration and representation of women in the different railway professions).

The work program shows that the social partners use all instruments that are available for the European social dialogue: Information and consultation, joint positions, negotiations resulting in agreements, joint projects.

Negotiations according to Article 139 of the Treaty

The European railway social partners negotiated in 1996 and signed in 1998 an agreement regarding the implementation of railway workers in the European working time directive 93/104/EEC. In this agreement the social partners jointly declared that the railway workers shall be included in the scope of the working time directive and identified three areas of activities where Article 17 of the Directive should apply.

When the working time directive was amended and the excluded sectors (transport workers, fishermen, doctors in training) were included, the Commission, European Parliament and the council fully respected the agreement and definitions of the social partners. However, in this agreement the railway social partners agreed on principles and did not negotiate the terms of conditions for working time.

The two agreements that were negotiated in 2003 and signed on 27 January 2004 were different and groundbreaking for the European railway social dialogue:

- Agreement on the introduction of a European Locomotive Driver's License for cross-border activities;
- Agreement on working conditions for mobile railway workers assigned to cross-border interoperability services.

In these agreements the social partners defined the terms of conditions on for the workers concerned by themselves.

The two agreements define common qualification standards, safeguard the health and safety of mobile railway workers and attempt to avoid social dumping. They are an important contribution of the railways' social partners to the creation of a Common European railway market.

The negotiations were extremely difficult and both social partners had to run through a learning process in order to succeed. Negotiations at European level in an multi-national delegation with partners coming from different systems and negotiation cultures require a high capacity and willingness to abstract from the own national background and to search for common European views. The European social partners in the railway sector gained a lot of experiences and capacities with these successful negotiations.

2.2.3 The future of the Rail Transport Social Dialogue

The European railway sector will continue to be challenged by the establishment of a single European railway market. According to the Regulation for the establishment of a European Railway Agency the Agency shall play a role in creating a European railway culture. The European social partners within the social dialogue played already a role in establishing a **European culture of the railway social partners**. In this sense the negotiations in the railway sector have a high political dimension. One challenge of the coming years will be the implementation and follow-up of the agreements.

CER and ETF have different views on the liberalization of rail passenger transport that is on the EU legislative agenda for the coming years. But they have common points on for example the question of infrastructure policy or fair competition among transport modes.

The European Railway Agency will start its work in 2005 and many tasks will affect railway safety, qualifications of workers and working conditions. The social partners have to continue their work in those fields. Many new questions will rise from the implementation of a common rail freight market.

The integration of the social partners from the new Member States is essential for continuing a successful European social dialogue.

3. Social Dialogue in the railway sector of the New Member States Country reports from Hungary, Slovenia, Slovak Republic, Poland and Czech Republic

3.1 Introduction

The social partners of the railway sector in the participating New Member States were asked to present the situation of their company and the sector, the structure and performance of the social dialogue in their company and their expectations regarding membership in the European Union. The following chapters will give a summary of those country reports.

A number of common points and specific problems could be identified:

Restructuring and preparation of the EU membership

In preparation of membership in the European Union and the application of the EU “acquis communautaire” the railway sector in all countries faced a restructuring of the railway companies with different speed and different models. The restructuring models differ from a complete separation of railway operation and infrastructure management to a holding structure where an integrated company remained under the umbrella of a holding or a mixed structure.

Management emphasised to transform the former technical orientated transport operator to a business and customer orientated transport service company.

Problems of the sector

The financial situation of the companies with high debts, lack of investment in modernisation of infrastructure and rolling stock and increasing withdrawal of the state from financing the sector are problems that the rail sector is facing in different intensity in all countries. The role of rail services as a public service and how to maintain this service is a point of discussion.

High share of rail transport in the transport market

In the New Members States the share of rail transport in the transport market is higher than in the old Member States. How to maintain this share is one of the important discussions at sector level.

Mass reduction of work force in the sector

In all New Member States trade unions are facing the difficult situation that the number of employees in the companies was reduced to a large extent. These mass reductions of workers in the sector were accompanied by social programs like early retirement programs, financial compensation and sometimes retraining and help to find other jobs. However, weak social security systems and the lack of alternative employment caused serious social threats for many railway workers.

Trade union landscape

In all railway companies of the New Member States we faced a huge number of trade unions, varying from 9 until 23 trade unions in one company. Often there are one or a few big unions and many miniscule unions with several hundred members, mainly professional organisation. This situation renders social dialogue difficult at company level.

Depending on the national legislation on collective bargaining and trade union representativity social dialogue at company level can even be blocked. This is the case when legislation provides that all unions have to sign a collective agreement and no representativity rules apply. This opinion is shared by management and trade unions.

Social dialogue in the railway companies

There is an existing social dialogue in the railway companies in all of the five countries. Collective agreements are negotiated and signed in all companies. Generally the collective agreements are very comprehensive and cover the whole range of social relations between labour and management.

In all companies railway workers' representatives are members of the Administrative or Supervisory Board.

In some countries Works Councils have been elected, depending on national legislation and the chosen model of social dialogue.

Trade unions are facing the problem that the company restructuring with separation of companies, reorganisation of the company organisation etc. requires difficult adaptation of trade union's internal organisation to those developments.

Tripartite social dialogue – bipartite sector social dialogue

Tripartite social dialogue at cross-industrial level plays an important role in the New Member States. In some countries such a tripartite social dialogue has been established at transport or railway sector level or is demanded by the trade unions. Social partners are the trade unions, companies and the Transport Ministry.

Due to the fact that the restructuring of the sector is based on legislation and the political concept of each country regarding the future development of the rail sector, the importance of public investments and the role given to the rail transport as a public transport, trade unions give a high importance to the social dialogue with the government. In all members states trade unions are highly skilled in participating in the political debate about the development of the sector. In this situation industrial conflicts were rather based on political decisions of the government as owner of the railway company than direct labour – management conflicts. This might change in the future.

Bipartite sector social dialogue is no issue for the time being in the rail sector of the New Members States. In only a few countries other rail operators than the incumbent established. In the contrary, we observed that in some countries the separation of the rail companies resulted in concluding different collective agreements for the different companies.

3.2.1 HUNGARY

Companies: MÁV, GySEV

In Hungary two rail operators are members of CER: The country's main railway company MAV Rt. with 50.790 employees and the small Hungarian-Austrian railway company GySEV with 1.750 employees.

Facts

- 7.800 km long railway network (annex 3)
- more than 43 million t freight transport per year (87 mio t in 1990)
- 32,7 % market share for national freight transport
- 160 million passengers (2002)

“The role of railways has been gradually declining through the years as a result of changes in road transport and transport requirements, a lack of comprehensive railway developments, and operations concentrating only on the most urgent maintenance works.”

MÁV

The restructuring of the main Hungarian rail company MAV Rt. took place in 2003. MAV remains an integrated company with five business units (passenger transport, haulage, infrastructure, engineering and real estate management) under the head of the Concern Centre.

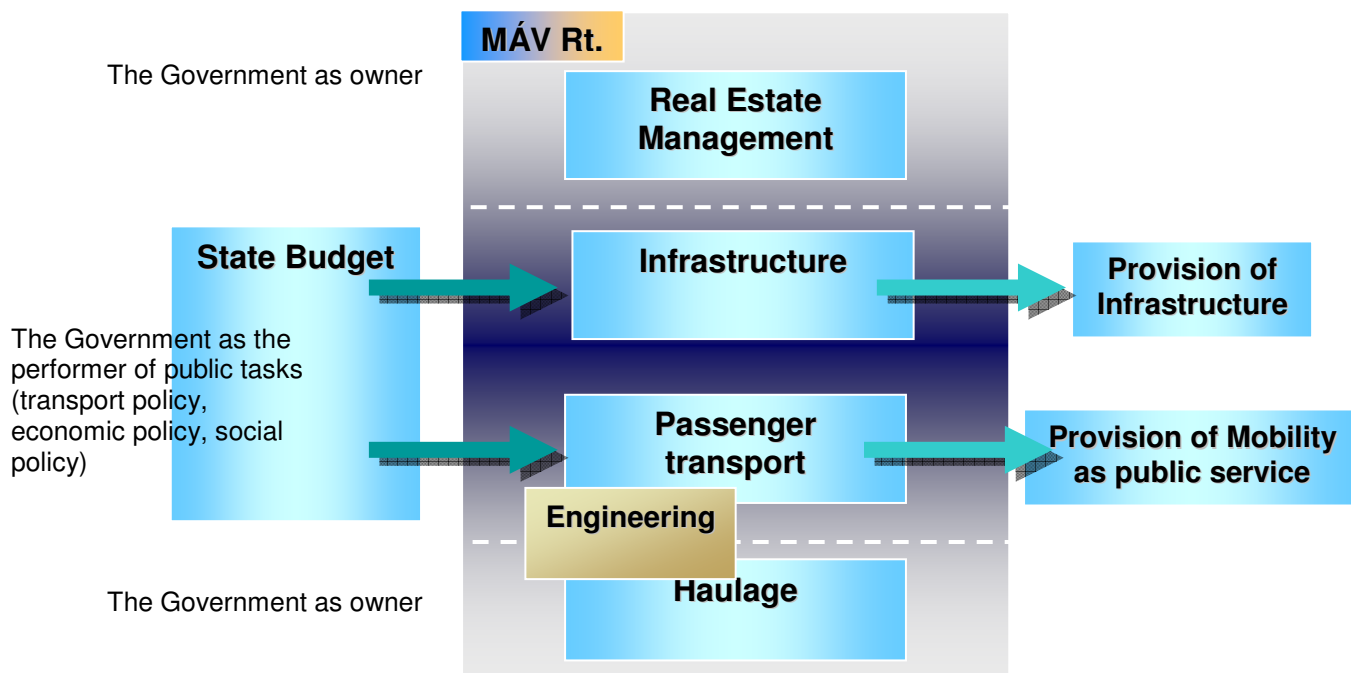
Legislation provides the hand over of the operation of the national infrastructure to the MAV infrastructure unit and a list of assets owned by the Treasury and assets owned by the railway company was established.

Provisions for independent track capacity distribution and rate setting organisation came in place by 1. January 2004.

Funding of public passenger services and infrastructure are based on contractual relation between the government and the company.

Hungary negotiated in the accession agreement derogation from EU legislation regarding free market access for rail freight transport until 2006. However, 20% of the rail track capacity will be liberalised in 2004 and 100% in 2007 as required by EU legislation.

The Business-Oriented Structure:



The philosophy of the MAV restructuring of the rail sector might be described as follows: The Government is owner of MAV and performer of public tasks like transport policy, economic policy and social policy. For the Government MÁV is primarily a tool of performing community tasks. For MAV this means to ensure that transport, economic and social objectives are met while taking as much burden as possible from the public budget. The highest possible ratio of its business shall come from the competitive sector, public services and business operations ahev to be mastered at the same time.

Strategy – Main Objectives

MAIN REFORM OBJECTIVES - TRANSFORMATION - POLICY PROGRAMME

The 2003 reform is based on the equal contractual relations of the Government and MÁV, as the customer and service-provider, respectively. The Government – MÁV relationship is to turn into a market-type customer – service provider interrelation.

As a result of the reform MÁV is turning into a modern and efficient Concern. Corporate systems ensuring the business-oriented management of the company are being created and a performance-oriented management system will be established. Step by step, IT systems are being developed in support of corporate management.

'The need of investments on the one hand and the high debt of 30 billion Ft. in 2003 on the other hand constitute big problems for the company.' (employer)

Main reform objectives (MAV)

- Enhancement of suburban and Intercity passenger transport
- Retaining the competitiveness of haulage by rail and re-obtaining a part of the lost transit consignments
- Nearing to the average technical standard of EU railway network by focusing track reconstruction on the principal network
- Upgrading management and control
- Enhancement of efficiency, reducing corporate losses and budgetary burdens

Consequences of this policy programme are a employment policy programme containing improving the work efficiency, rationalisation and reducing of employees.

For the period 2003-2006 work efficiency shall be improved by 20% according to the management's objectives. This results is a staff reduction of 11.000 (early retirement 1.500, outsourcing 3.700, employer's notice by re-organisation 1.000 and technical development 4.800).

MAV developed a 'care-taking program' for the victims of the downsizing which includes employment programs ("New Chance Program") with the objective to help finding new jobs. This is carried out by the "MAV New Chance Foundation" and provides services during a six month period after redundancy. Those who do not want to use this program receive compensation corresponding a three month average wage.

GySEV

The Győr-Sopron-Ebenfurt Railway Inc. (GySEV) is a private Hungarian/Austrian railway company with a 120 year old history. 31, 5 % of the shares are held by Hungary, about 1% by single persons. GySEV is owner of its own infrastructure. Part of the infrastructure is national property. The company has 1.750 employees, 150 are employed in Austria.

The company plays an important role in regional cross-border passenger transport.

GySEV increased freight transport by 80% and passenger transport by 35% within last 10 ten years. However, the company's problems are high debts of about 900 Mio. HUF debts in 2002. They could be reduced by 35 Mio. In 2003.

The company decided on a modernization and restructuring program which included among others to develop freight transport and invest in an own logistics centre. This modernisation program included as well the reduction of employment by 110 in 2003 and 40 in 2004.

'The development of the infrastructure, infrastructure charges and financing infrastructure are big problems for the company. The payment of salaries is another big problem.' (employer)

'The redundancies did not create major problems yet because other solutions could be found and reserves have been used. However, further reduction of employees will create problems.' (union)

TRADE UNIONS

Trade union representativity in Hungary

The national Labour Code regulates the representativity of a trade union. Unions with more than 10% of the votes in social elections in one company are recognized as a representative union. Likewise, any union with two third of its membership belonging to the same employment group is considered as representative.

Negotiations on a collective agreement are carried out with all present trade unions. In order to sign a collective agreement they have to represent together at least 50% of the votes in the social elections. In the case of disagreement among the trade unions the recognised representative unions have the right to sign a collective agreement. Condition is that their union representatives together received more than 65% of the votes in the social elections to the Works Council.

Trade unions in MAV

In MAV there are 18 trade unions represented in the company. Five trade unions of the status of a representative union according to Hungarian legislation: the Trade Union of Railwaymen (VSZ, 10.767 members)), the Free Trade Union of Railway Employees (VdSzSz, 9.610 members)), the Engine Drivers' Union (MOSZ, 4.510 members), the Union of the Staff of Railway Line Facilities (PVDSZ, 980 members) and the Rail Section of Engineers and Technicians' Free Union (MTSZSZ, 68 members). The representativity of two of the five unions is questioned.

In the last social elections VSZ received 41,5% of the votes and VdSzSz 25,8% of the votes, MOSZ 11,5%, PVDSZ 7% and MTSZSZ 0;71%.

VSZ and VdSzSz are members of the ETF.

In MAV 60% of the employees are member of a trade union.

Trade unions in GySEV

In GySEV there are three representative trade unions: VDSZSZ/GYDSZSZ, MOSZ and VSZ. GySzSz is the biggest union with 1034 members. The others are VSZ with circa 40 members) and MOSZ with circa 70 members.

In the last social elections GYDSZSZ received 63,5% of the votes, MOSZ 18%, VSZ 16% and independent candidates received 2,5% of the votes.

'Within GySEV the relationship with the trade unions and the Central Works Council is a good one.' (management)

'Fewer but stronger and more efficient unions are needed.' (management)

Further Participation forums are Works Councils, a Labour safety representation and a Controlling committee.

The Work Councils are elected within the company introduced by national legislation. Social elections are taking place every three years.

The SOCIAL DIALOGUE – in the company and the sector

Social dialogue is taking place in various forms in both companies, MAV and GySEV:

- Negotiation of collective agreements;
- Election of Works Councils;
- Representation in the Supervisory Board of the companies;
- Labour Safety Committees;
- Round Tables Council of Railway employees (MAV);
- Reform Consultative Committee (MAV).

Workers' representation and participation in MAV

MAV has an own **company collective agreement** which is signed by the representative unions and valid until the end 2004. Additional agreements are negotiated at division and site level.

The Round Table Council of Railway Employees is the institutionalised forum of working relations within MÁV. This round table is responsible for conducting negotiations, where MÁV and the representative Unions are the negotiating parties. Management and unions meet at least once a month in working-meetings.

The Hungarian legislation provides for the election of **Works Councils**. Due to the size of the company there are three levels of works council In MAV: a Central Works Council, and works councils at division level and site level. Until now four social elections were carried out in MAV.

Elections for the **Labour Safety Committees** took place three times until now. A Central Labour Safety Committee works since 2002 but has not been recognized by the management until a court judgement confirmed the authenticity of the elected body.

There are four workers' representatives members of the **Supervisory Board** of the company who are nominated by the Central Works council.

A **Reform Consultative Committee** with representatives from the management on the one hand and 5 workers representatives from the trade unions and the works councils on the other hand works on an irregular basis.

'The social dialogue structure is one of the best instructor.' (employer)

"Social dialogue at MÁV has a well-established regime, which does not mean, however, that certain issues do not generate heavy debates." (management)

'The relation between employer and unions must be guided by the following principles: The parties respect each other's rights and interests, the relations between the parties are regular and persistent, the parties try to prevent conflicts and solve the existing problems.' (VSZ representative)

Social dialogue in GySEV

On own **Collective Agreement** for GySEV were signed by the management and the three representative unions. Additional agreements are negotiated at division level.

Works councils exist at two levels: A Central Works Council and three Works Councils at division level. As GySEV is a transnational company with employees in Hungary and Austria first contacts were established in order to prepare negotiations for a **European Works Council**.

Three workers' representatives are member of the GySEV **Supervisory Board**: two representatives are from Hungary and one workers' representative from Austria.

The unions GyVDSZSZ is the dominant union that gained all seats in the works councils during the elections.

“Social dialogue in GySEV is good – there are no strikes. GySEV has the second best Collective agreement of the country.” (management)

“Although there is not any social dialogue covering the entire sector for the time being, such a dialogue is in the making, and stakeholders may agree on its form and nature in the near future.” (MAV management)

No TRIPARTITE DIALOGUE at sector level:

In Hungary no Tripartite Dialogue has been established for the railway sector despite the demand of the majority trade unions. The establishment of a sector tripartite dialogue failed because MOSZ opposed such a dialogue and the MAV management insisted on participation of all unions.

The government regulation on “European level reform of MAV Rt. And the implementation of EU access reform required” from January 2004 includes a cut employment of 11.000 in the period 2003-2006. According to the trade unions this

legislation as well as the long term development plan 2015 for the Hungarian railways was decided in Parliament without prior dialogue with the trade unions.

3.2.2 SLOVENIA

Company: SZ

Slovenske Železnice - SZ:

The Slovenian railway network represents 0,3% of the European railway infrastructure network. Slovenia has an excellent geographical position on the cross-routes of the Pan-European Corridors no. 5 and 10. This is the reason for an over average share in freight transport and especially international rail freight transport.

Facts

■Employees

8.285 employees in the SZ Holding SZ (30.04.2004),
2.270 employees in affiliated companies (30.04.2004)

■Freight transport

17.238 thousand (2003; Index 105,7 - increasing), 3.274 mio TKM (2003; Index 106,4 - increasing)

Market share of the railways in freight transport is 41% in 2003 - SURS;

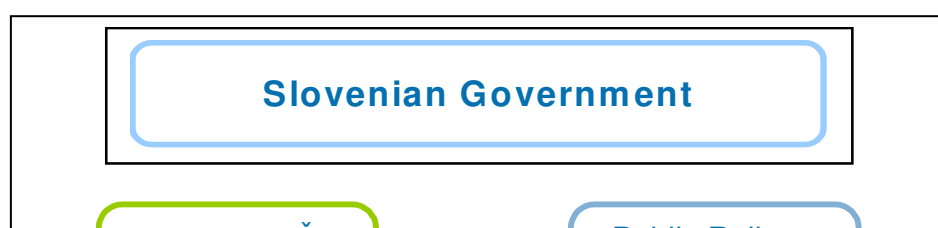
■Passenger transport

15.066 thousand (2003; Index 103,8 - increasing), 777 mio PKM (2003; Index 103,7 – increasing)

The market share of the railways in passenger transport: 25%;

The role of railways has been gradually declining through the years as a result of changes in road transport and transport requirements, a lack of comprehensive railway developments, and operations concentrating only on the most urgent maintenance works.

Based on the “Restructuring of the public company Slovenske Železnice d.d. Act” the new organisational form of the SZ company was established. SZ is a Holding with three independent companies for freight transport, passenger transport and infrastructure.



The Holding Slovenske železnice is the on the one hand the railway transport undertaking and on the other hand the authorized manager of the rail infrastructure. It is 100% owned by the Slovenian state. The infrastructure is treated as a public good under the responsibility of the Public Railway Transport Agency. Yearly contracts are concluded between the Holding SŽ and the Agency PRTA for the maintenance of the public railway infrastructure, the traffic management, the domestic passenger traffic and for combined transport.

In 2004 no new rail companies were established in Slovenia.

Strategy – Main Objectives

MAIN REFORM OBJECTIVES - RESTRUCTURING - POLICY PROGRAMME

The main programme for the Slovenian railways is the “Act on restructuring and privatization of public company SŽ” which shall transform the SZ in a joint stock company. The Act aims for a business rehabilitation of the Holding SŽ, a financial rehabilitation (transformation of the debts into capital share and substitution of the state guarantees) and rehabilitation of the human resources.

According to the company the new organisational structure is market oriented instead of following a technological logic. The strategy includes the foundation of three Ltd companies, Freight Ltd, Passenger Ltd and Infra Ltd.

The company objective is a 82% increase of rail freight transport within the period from 2001 to 2010 and an increase in passenger transport of 24% in the same period.

Main reform objectives

- FREIGHT: International railway operator
- PASSENGER: Provider of integral passenger services
- INFRASTRUCTURE: Efficient provider of infrastructure activities
- HOLDING: Vertically integrated railway system

The high debts and interests are the main problem of the company. According to the SZ management the restructuring law did not consider EU legislation and did not provide the company with a solid financial base.

The trade unions criticize that the company strategy is only based on profit and does not take into consideration the public service task of the railways.

The unions are of the opinion that a joint strategy of the company and the trade unions would strengthen the railway lobby especially in comparison with the strength of the road transport lobby.

This should be based on a joint conceptual debate among the company's social partners.

TRADE UNIONS

Trade union representativity in Slovenia

Slovenia adopted the "Act on trade union representativity" in 1993. At national only confederations of trade unions are recognised as representative by that Act. They must fulfill two conditions: The confederation must be formed by trade unions from different branches or professions with a threshold of at least 10% workers from particular branches or professions affiliated to confederation. Trade unions are recognised as representative by the Act when a threshold of at least 15% of workers from particular branch, profession, municipality or wider local community is affiliated to the union.

The Slovenian government is currently preparing a new Act on Collective Agreements, which will replace the Representativity Act. The proposal was discussed by the expert group of the Slovenian Economic and Social Council several times without finding a compromise on the question of representativity among the trade union confederations.

Recognition of representativity is given by the Ministry for employment, family and social affairs or by a company.

Organisation of the trade unions in Slovenske Železnice - SZ

There are 8 trade unions in the Slovenian railways company:

- Sindikat železničarjev Slovenije / Trade Union of Railway Workers of Slovenia / SŽS, Sindikat strojevodij Slovenije / Trade Union of Engine Drivers of Slovenia / SSLO, Sindikat železniškega prometa Slovenije / Trade Union of Railway Traffic of Slovenia / SŽPS,
- Sindikat delavcev železniške dejavnosti Slovenije / Trade Union of Railway branch of Slovenia / SDŽDS,
- Sindikat železniškega transporta Slovenije / Trade Union of railway Transport of Slovenia / SŽPS,
- Sindikat vozovnih preglednikov Slovenije / Trade Union of Coach Inspection Staff / SVPS,
- Samostojni sindikat progovzdrževalne dejavnosti Slovenije / Independent Trade Union of Track Maintenance of Slovenia / SSPDS,
- Sindikat vzdrževalcev železniških voznih sredstev Slovenije / Trade Union of Maintenance staff of rolling stock of Slovenia / SVŽSS.

All eight trade unions form together a confederation named »Sindikati Slovenskih železnic / Trade Unions of the Slovenian Railways / SSŽ, which has its own legal status. Those trade unions are representative and fully authorized signers of the Collective agreement for the railway transport branch. 90% of the SŽ employees are

member of Unions. 5 trade unions are member of ETF having an own coordination structure.

The SOCIAL DIALOGUE – in the company

The social dialogue in the Slovenian railway company is based on in the »Act on co-management« and is an internal cooperation agreement between the management and the workers.

There is an elected Works Council in SZ. Workers' representatives are members in the **Supervisory Board** and the **Management Board** of the company.

Only two of six members of the Supervisory Board are trade union members. They are proposed by the Works Council and nominated by the Government. The other four members are nominated by the government.

The Management Board has four members. The workers are represented by the elected Director of Employees who is member of Board with full responsibilities. The Management Board takes decisions by voting. The Director of Employees has *one* vote.

According to the trade unions the voice of the workers representative is not heard in the Management Board and no decision could be influenced. The atmosphere even worsened when the company's General Manager limited the subject for discussion.

'The unions criticize that no real social dialogue took place on the restructuring legislation and no solutions for the problems have been found.' (union)

According to the trade unions the management, however, does not really want social dialogue, remains declarative towards social dialogue. The unions believe that this attitude toward social dialogue is a heritage of the times of auto-gestation. They wish to have a social dialogue and to contribute to the development of the company.

The national “Workers’ Participation in Management Act” is the legal basis for the establishment of independent **Works Councils**. This Act allows in principle to elect Works Councils in each of the SZ companies with an SZ majority ownership.

However, the trade unions have decided to put the action for only one Works Council on the Holding level.

No TRIPARTITE DIALOGUE at sector level:

At the moment there is no tripartite dialogue at the transport or railways sector level in Slovenia. A kind of indirect tripartite sector dialogue takes place through the company’s Management Board, where the government acts as owner of the Slovenian Railways Holding company. According to the Slovenian “Companies Act” the government takes the role of the company’s assembly. Only few informal meetings with Ministry of Transport officials were taking place on the request of the trade unions. Officials from The Ministry of transport, railway trade unions and the railway company participated in meetings, seminars and round tables where sector related problems are discussed.

3.2.3 SLOVAK REPUBLIC

Companies: ZSR, ZSSK

ZSR and ZSSK:

Slovakia can be regarded as a transit country as it is crossed by two Pan-European Corridors, Corridor no. 5 and Corridor no. 6, and by AGTC, AGC and TER lines.

The current structure of the Slovakian railway sector originates from January 2002 when the ZSR was splitted in two independent companies, **ZSR** and **ZSSK**.

ZSR - Management and operation of railway transport:



ZSSK - Transportation and Commercial Activities:



ZSR is the manager of the railway's infrastructure, a state owned company and currently the exclusive railway infrastructure manager in Slovakia.

ZSSK is the main railway operator in Slovakia, a young railway company.

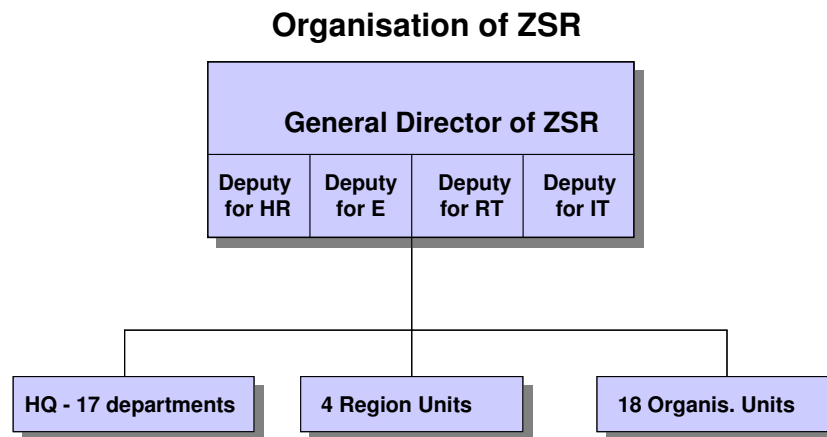
Owner of both companies is the Slovak Republic represented by the Ministry of Transport, Posts and Telecommunications.

Facts 21.261 employees in ZSR

- 18.486 employees in ZSSK (end 2003, in 2001 both companies together: 44.164 employees)

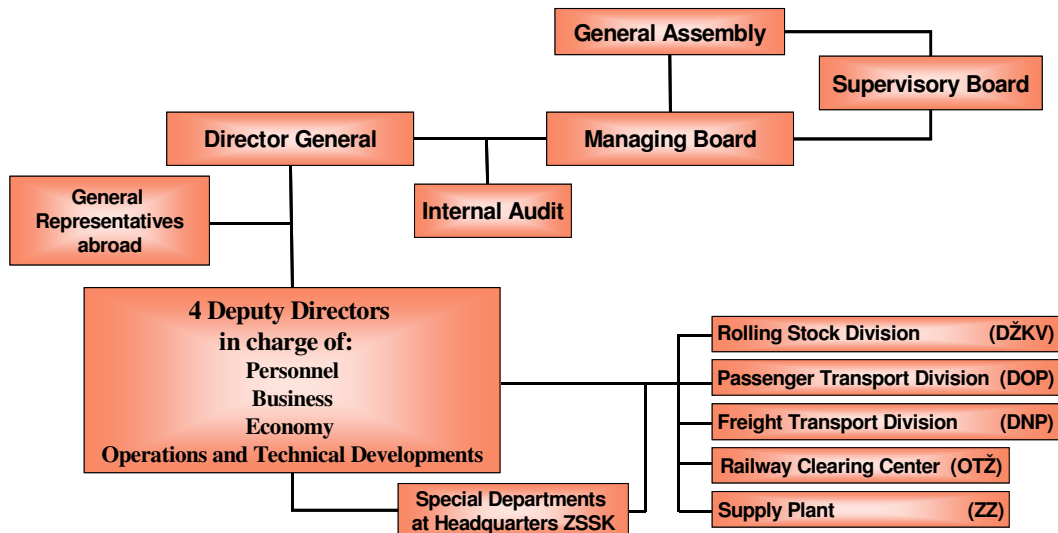
- area of the Slovak Republic 49 036 km²
- completely 3665 km railway lines
- together 10.149 turnouts on the railway lines
- rail market share in freight transport: 30%

The Business-Oriented Structure:



Under the lead of the General Director several Deputy Directors are responsible for 17 departments, 4 regional units and 18 organisational units.

Organisation of ZSSK



Strategy – Main Objectives

BASIC GUIDELINES - BASICS STRATEGIC VISION AND POLICY - DEVELOPMENT

ZSR:

According to the management the basic guidelines of the development of the ZSR are the transformation project for ZSR and the project on performance of the consolidated functions of ZSR. The strategic policy of ZSR is based on transforming the company to an effective and market oriented subject, customer orientation and the professional development of the employees. This policy is integrated in the process of the European railway integration.

ZSSK:

The basic strategic vision of ZSSK is to develop the company into a customer orientated company, changing the business system and increase productivity. In order to achieve those objectives the company wants to modernize management by the implementation of process managements and introducing a Quality Management System (ISO). Modernization and investments in the rolling stock would be a necessary condition for good quality services and ZSSK wants to use EU funds for

this purpose. The company considers a comprehensive care of employees and the development of human resources as part of its strategic policy.

ZSSR vision on the impacts of the entry into the EU

- Advantageous geographical position
- Involvement in the transit of goods
- Flexibility in regard to increased mobility of citizens
- Increased goods transport in the trade with the EU countries

TRADE UNIONS

There are 11 trade unions in the rail operator company ZSSK, (OZZ, FPP, UZZ SROZ, SSZ, FS SR, OAVD, NKOS-Z, OZ-VSP, ZPZZ) and 9 trade unions at the infrastructure manager ZSR, (OZZ, OAVD, OZ-VSP, NKOS-Z, FPP, FVC, SSZ, ZROZ, ZPZZ).

OZZ is the biggest trade union with 28.000 members in the railway sector (circa 16.000 members in the infrastructure company ZSR and circa 12.000 members in the rail operator ZSSK). 70 % of the Slovak railway workers are organized in OZZ. Including retired railway workers OZZ organizes 39.000 members. OZZ is member of ETF.

Next is the autonomous locomotive drivers' organization with members in the rail operator company ZSSK only.

Trade unions faced in the recent years a number of difficulties. The reduction of employees in the two companies (2.200 in 2001, 900 in 2002 and 2.024 in 2003) resulted in a reduction of membership and the separation of the company required a splitting up of the membership.

The **SOCIAL DIALOGUE** in the company

Social Dialogue within ZSR and ZSSK is taking place at company level between the management and trade unions. There is no Works Council.

The collective agreement is the basic legal document and the result of the social dialogue. Until 2003 there was only one collective agreement for both companies. In 2004 two different collective agreements for ZSR and ZSSK were negotiated for the first time.

The collective agreements are fixing working conditions and working time, salaries, ranking of professions etc.

In **ZSR** and **ZSSK** forms of the social dialogue are:

- collective bargaining,
- meetings in expert teams (ZSR) or co-operation committees (ZSSK)
- common hearings for problem solution (ZSR)
- written attitudes.(ZSR)

The restructuring of the railway sector and the company in Slovak republic dominated the social dialogue since 1998. The number of employees was reduced significantly and the trade unions had to accept salary decreases to a certain extend and the deletion of traditional social benefits.

The company/ies established social programs for employees in the context of this restructuring.

The direction of restructuring and the companies' business strategies were and are important subjects for the social dialogue.

So declared the Slovak rail trade unions a strike in 2003 when the principles of the rail reform and the development objectives until 2008 were discussed.

According to OZZ social dialogue in the Slovak rail sector is taking place in mutual respect. Social dialogue helped to achieved during a difficult process solutions for the employees. The social dialogue in the rail sector is considered as the second best in Slovak Republic.

Representativity of social partners

Legislation on representativity of trade unions has been changed in Slovak Republic in 2003. According to the new law collective agreements can be signed only when all trade union centres represented in a company agree. All unions in a company are recognised social partners and there are no further requirements regarding the representativity of an organization.

In the past, legislation provided that in the case of conflict the biggest unions could sign collective agreements with the company.

According to both social partners, the rail company management and the trade unions, this new legislation creates problems for the social dialogue in the railway sector. Most of the trade union centres in the Slovak railway sector are small organisations with 100 or a few hundred members. They are mainly professional organisations representing workers of one rail profession only. .

'Both, the company management involved in collective bargaining as well as the big trade unions consider this legislation as a big obstacle for the social dialogue in the sector and the capacity to conclude collective agreements.

Both believe that many of the small professional organisations do not have the capacity, experiences and professionalism for participating in collective bargaining.'
(voices from a company visit)

TRIPARTITE DIALOGUE in Slovak Republic and the rail sector

Tripartite social dialogue exists at national level and is based on legislation. Social partners are the national government, the national trade union federations and national employer's federations.

"The Government of the Slovak Republic gives the development of tripartite arrangements greatest attention, the development of trilateral relations, the triangle of relations between Government, employers and employees and their organisations, as well as the social dialogue and social partnership."

There is a sectoral tripartism at the level of the Ministry of Transport and Telecommunication. The trade unions are represented by the Federation of Trade Unions in the Transport and Telecommunication Sector. Four railway trade unions, among them the biggest union OZZ, are members of this Federation and participating in this sectoral tripartite dialogue. This tripartite body is a consultative body where there partners can give joint or separate recommendations. It is not a negotiating body. The Tripartite dialogue meets one a year and discusses ainly strategic questions and mainly questions related to employment in the setor.

“The tripartite sectoral dialogue is developing in a positive way.”

(trade union representative)

The European Social Charter and the Charter of Fundamental Social Rights of Employees of the European Union will improve the conditions for the branch-sectoral dialogue in the Slovak Republic. (union representative)

3.2.4 CZECH REPUBLIC

Companies: CD, SZDC

Ceske drahy CD:

The Czech Republic is a transit country with an excellent geographical position on the cross-routes of pan-European corridors.

Facts

- each day 1.800 freight trains and
 - 7.000 passenger trains are dispatched
 - daily more than half a million passengers and
 - about 250 thousand tons of freight are transported
- 29 % market share of the Czech transport sector

75.000 employees in CD

550 employees in SZDC

Private rail freight operators have a market share of 10 % related to the revenues (5 % related to the traffic). These figures show that private rail freight companies are operating in the most profitable freight transport market segment.

The Czech railways state organization was established in January 1993 as a successor of the former Czechoslovak Railways (CSD) at the territory of Czech Republic. The national rail system was opened in 1995 according to Act No. 266/1994 Coll..

With 80.000 employees in 2002 the Czech rail company was the biggest single employer in Czech Republic. The company ranked 4th in Europe in terms of output, following Germany, France and Poland, and 2nd in term of transit freight transport, a very attractive sector from the business perspective.

Reform 2002 - A Business-Oriented Structure:

A major reform of the Czech railways came into practice on 1st January 2003 when the former state organisation was separated into two companies and the rail operator was transformed into a joint stock company (Act No. 77/2002 Coll).

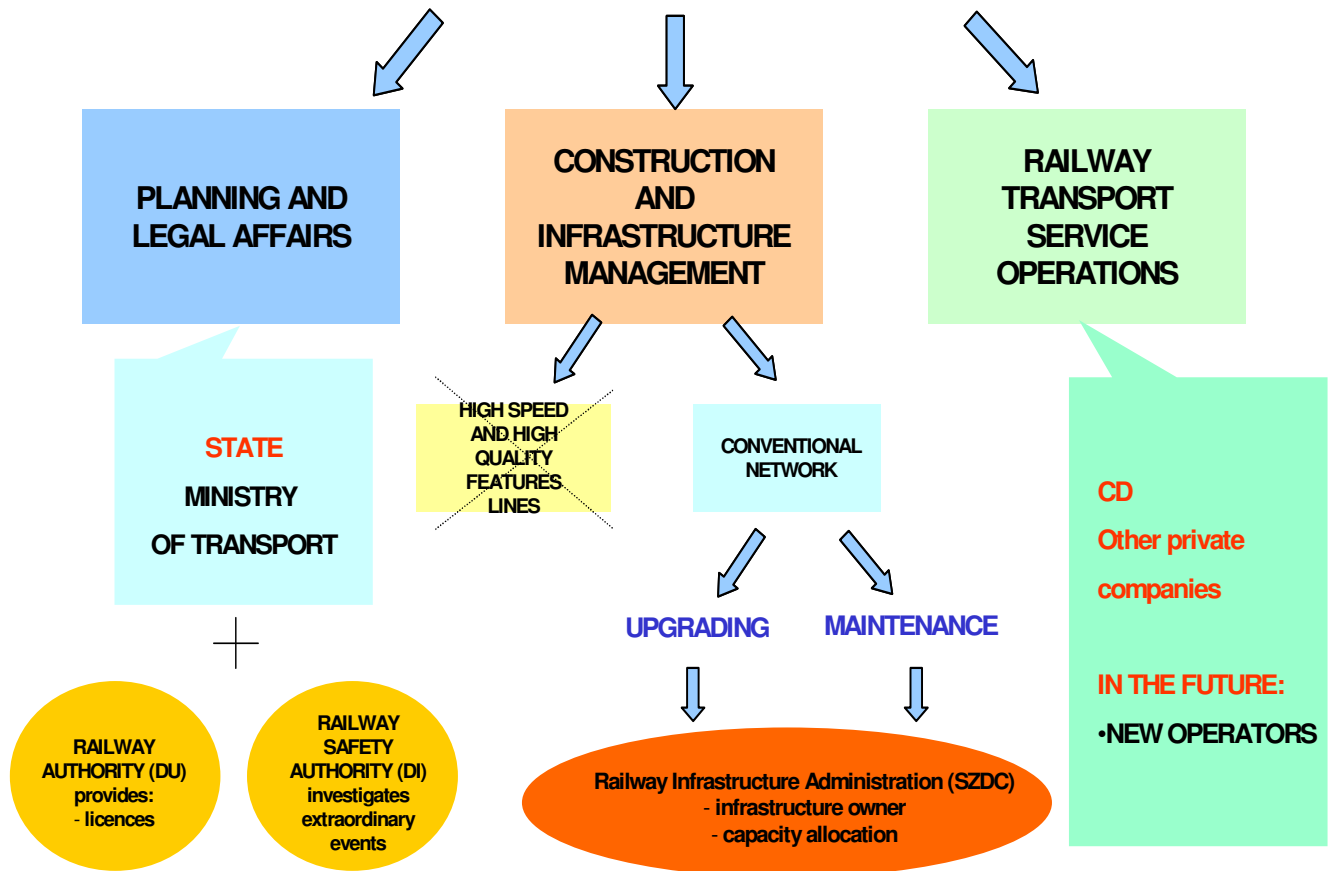
Ceske drahy (CD) is a joint stock company, owned to 100% by the State.

It is the main railway transport for long-distance passenger transport, regional passenger transport and freight transport and other business activities.

Additionally it runs the railway infrastructure in terms of traffic management, maintenance and investments. For this purpose a contract was established with the infrastructure company SZDS (subcontracts). The salaries of the employees concerned are invoiced to the infrastructure manager.

SZDC (Railways Route Administration, state organization) acts on behalf of the government as the owner of the rail infrastructure and manages the assets that constitute the railway lines. It acts as the manager of the railway infrastructure operation, functionality, modernization and development. SZDC employs 550 persons.

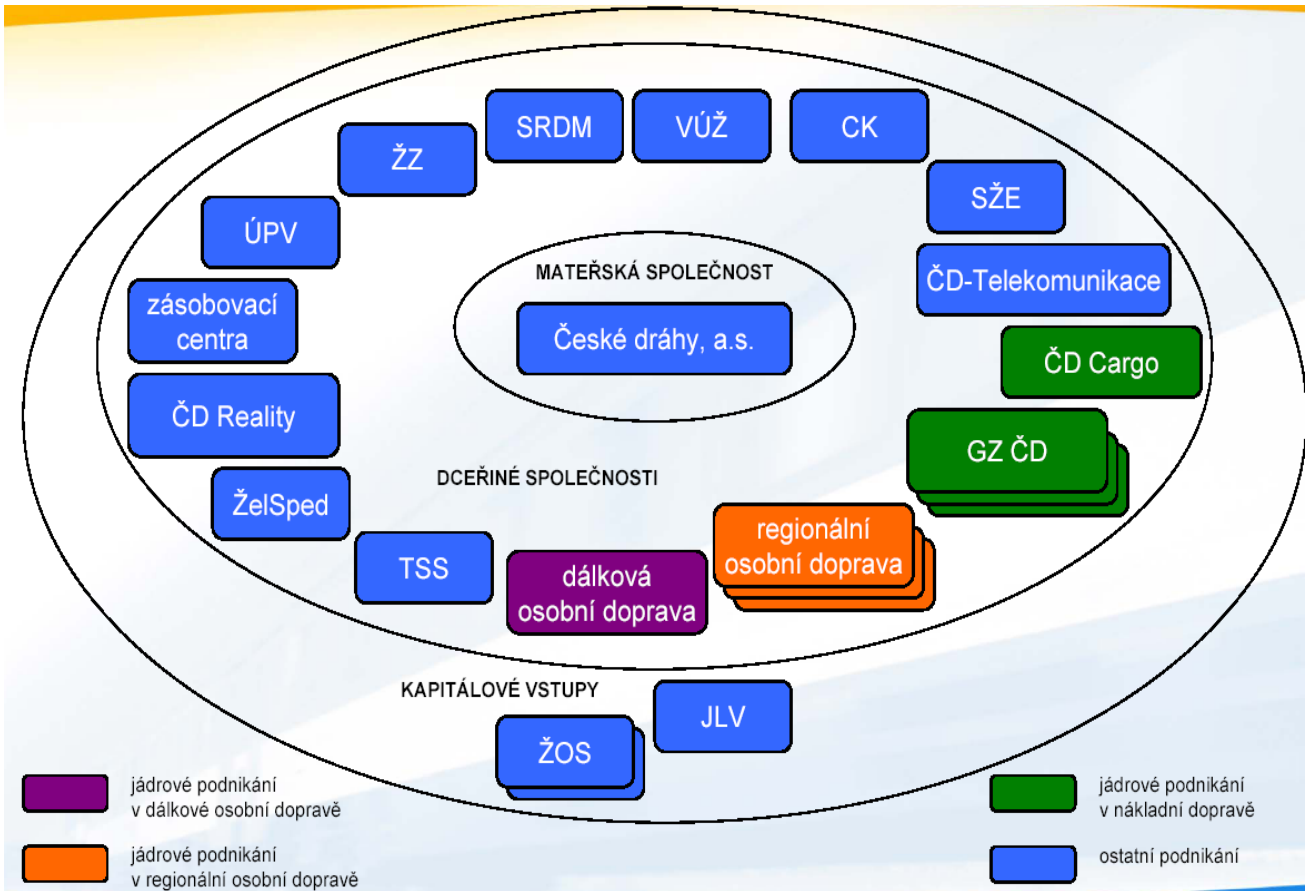
The current model of Czech railway sector and the distribution of the responsibilities of the Czech Railway system:



According to CD management the legislative conditions created by the Transformation Act give a space for exploitation of business capacities in the transport market. Economic operation is no longer burdened with operating expenses and cost for the maintenance and development of the infrastructure. This provides a solid basis for enhancing economic effectiveness of a client orientated company.

'Trade unions criticize the management of the Czech Railways that instead of trying to improve the activities in business field and in the offer for passengers, the management tries to set off the activities, centralize the agenda and these issues lead to staff reduction which results are also more favourite by the media.' (OSZ)

Strategic view of CD in near future



TRADE UNIONS

Trade union status and representativity

The legal relation between employers and trade unions are legislated in the Labour Code, the Collective Negotiation Act and the Remuneration Act. Trade unions are set up independently and have the status of a civic association of employees with the task to encourage and protect the economic and social interests of their members. Article 22 of the Labour code defines the obligations of trade unions.

According to the Czech legislation collective agreements apply to all workers of the sector or company and the largest trade unions is considered as the union representing the non organised work force.

Legislation provides on the other hand that all trade unions in a company have to negotiate together and to conclude agreements in unanimity. They have to act as one partner. There is no threshold regarding representativity. This situation complicates collective bargaining and the conclusion of collective agreements to a large extent as small professional organisations with a limited scope of interest can block the whole collective bargaining process.

Trade unions within CD

Workers in the Czech rail company are represented by 6 trade unions which are recognized as social partner organisations:

Trade Union of Railwaymen OSZ (52.000 members), Engine Drivers' Federation (6.800 members), Train Crews' Federation (620 members), Union of Railway Employees (540 members), Wagon Examiners' Federation (460 members) and Union of Railwaymen in Czech Republic (215 members).

70 % of the CD employees are organised in OSZ. 8 % are organised in the Engine Drivers' Federation and other 2 % of the employees are organised in the other 4 unions. OSZ is member of ETF.

The **SOCIAL DIALOGUE** in the company

Collective agreements are negotiated between the company management and the trade unions represented in the company. According to the Czech legislation the collective agreements have to be signed by all trade unions in the company and apply to all workers. They are valid for a one year period.

There are two separate collective agreements for the rail operator CD and the Rail Route Administration SZDC.

The company collective agreement covers traditionally all basic fields of labor-management relation :

- Employment

- wages

- working time

- holidays

- travel reimbursement

- working conditions and working environment

- health and safety at work

- provisions on cooperation between the unions and the management

- annexes with more specific items (e.g. wage compensation in the case of loss of health requirements for specific professions)

The trade unions prefer a comprehensive agreement as the collective agreement has more legal power than internal company regulations issued by the employer.

Trade unions are represented in the **Supervisory Board** of the company with three members out of nine members on total. They are elected for a 5 years period.

Both, CD management and OSZ consider the social dialogue within the company as good. However, there are definitely divergent opinions but as well instruments for solving upcoming problems.

Strategic goals in the field of human resources policy from the management point of view:

- Optimizing the number of employees according to expected business results by reengineering the business processes and outsourcing;
- Personal costs savings
- Optimizing the age structure of employees (the average age is 44,12 years)
- Increasing qualification of employees (especially in the management and service field; human resource development policy in the past was too much concentrated on the technical operation).

The trade unions criticise e as the result of the recent reform of the company's organisational structures and the human resource policy an increase pressure on the staff and its legal representatives regarding flexibility working time and working conditions.

TRIPARTITE DIALOGUE at national level

The Czech Council of Economic and Social Aid is the result of a tripartite social dialogue. The General Assembly of the Council (RHSD) is stated in the government's legislative program and reacts on current problems of the society. The Council of Economic and Social Aid is a consultative body that forwards proposals of the social partners and sets guidelines for various economic sectors.

The railway trade union OSZ participates in the activities of the RHSD via the trade union confederation Independent Union Association (ASO). The railway union actively participates in the following RHSD working groups: Transport Commission, Working group on public services, Working group on local development and others.

There is no sector tripartite social dialogue at the level of the Ministry of Transport in Czech Republic.

The restructuring of the Czech railways and the mass decrease in employment from 162.000 in 1992 (only Czech Republic) to 78.500 in 2003 was accompanied by

legislative provisions to solve the social aspects of restructuring, so so-called Supporting social program (no. 322/2002 Collection). It provides financial contributions in the case of job losses and early retirement provisions.

The trade unions achieved to extend this program until 2008. The Czech railways expect a further reduction of 16.000 employees by 2008.

3.2.5 POLAND

Company: PKP Group

Facts

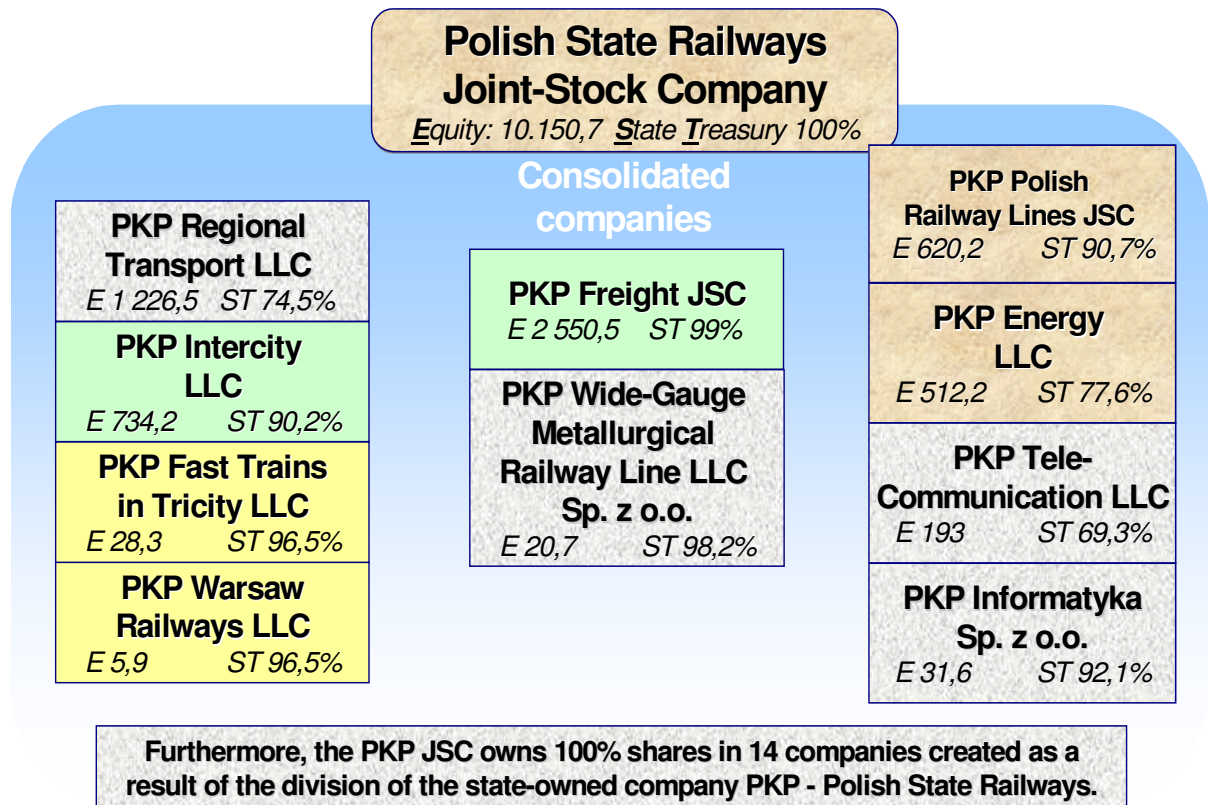
- Railway infrastructure: 23. 500 km (about 3.000 local lines for liquidation)
 - Passenger transport 299,8 mio passengers
 - Freight transport 161,8 mio tons
 - Rail share in freight transport: 53,58 %
- Rail share in passenger transport: 25 – 30%
- Employees 140.433 on 31 March 2004 (202.569 in 1999; 30,6 % reduction)

The Structure of PKP Group

The restructuring of the Polish railways started in 1999. The PKP Group was established in 2001 as a Holding with 28 companies. The forecasted 2003 net financial result of the PKP Group without taking into account the consolidation exclusions is minus 1.488,6 mln zł (2002 net financial result of the PKP Group after the consolidation of financial reports: -2.715,7 mln zł).

Deficits are mainly caused by regional passenger transport. The tickets do not cover more than 10% of transport costs. The volume is decreasing due to high unemployment, low purchase power and still expensive tickets. Ticket prices are rising faster than inflation rate.

PKP Cargo is the most profitable company within PKP Group with rising transport volume.



Main Objectives - Restructuring

MAIN REFORM OBJECTIVES - RESTRUCTURING - POLICY PROGRAMME

On 16 December 2003 the government adopted a two years follow-up restructuring program for the railway sector including further job reductions (over 30 %).

Further big problems are the financing of infrastructure, the lost investments (under financing), the subsidiary budget and the funds.

'The debts have to be decrease, in 2004 we have 1 billion less at our disposal.'
(employer)

TRADE UNIONS

Trade union representativity in Poland

The national Labour Code Section X regulates trade union representatives in Poland at single company level and at multi company level (like PKP Group).

In the case of a multi-company level a trade union is representative when it gathers:

- Not less than 500.000 employees;
- Not less than 10% of the employees falling under the status regulation but not less than 10.000 employees;
- The highest number of employees for whom the multi-company collective agreement will be signed.

For a single company a trade union is recognized as representative when it gathers:

- Not less than 10% of the employees or
- Not less than 7% of the employees when the union is part of a recognized multi-company trade union organization.

Collective agreements can be signed with only one representative trade union.

Trade unions in PKP Group

There are 23 national trade unions centers active in PKP Group at Holding level.

6 trade unions centers are representative.

The 'Federation of Trade Unions of PKP employees' and the 'National Section of NSZZ "Solidarnosc"' are the biggest unions and both member of ETF.

About 75% of the PKP employees are organized in a trade union.

The situation differs in the different PKP companies: PKP Regional with 120.000 employees and 23 trade unions, PKP Cargo with 49.000 employees working in 45 sites and 21 trade unions which organize more than 80% of the PKP Cargo employees, PKP Infrastructure with 45.000 employees and 29 trade unions, PKP Intercity with 9 trade unions that organize 52% of the employees in PKP Intercity.

“After the political changes in Poland it was necessary to have many trade unions. However, after accession to the European Union a regrouping of trade unions would be necessary and the number should be reduced from today 20 to 5 or 6 trade unions in future.” (union voice)

The SOCIAL DIALOGUE

Social dialogue within PKP is mainly taking place in form of negotiating collective agreements at three different levels:

Holding level / PKP Group

At the Holding level general rights and duties of employers and employees are negotiated. Working conditions are not subject of negotiations at this level but specific benefits like the reductions on train tickets for PKP employees or providing employees with coal instead of an ‘indemnité d’anciennité’.

Formally the Holding is not employer but an association of the different PKP companies. For this reason the 28 PKP companies created the Union of Railway Employees in PKP which is a kind of employers’ association.

Company level

Formally the different PKP companies are the employers of the PKP employees. Social partners are the companies’ Management Boards and the trade union organisations in each company.

Negotiations within the companies are taking place at the level of the Administrative Council. At the monthly meetings trade unions present their concerns. Negotiations of collective agreements include subjects like working conditions, technical questions or salaries.

PKP Intercity is in a specific situation as directors do not have the right to dismiss personnel. Only the central level decides about redundancies.

Site level

At *site level* specific questions related to the daily work at the site are negotiated. Here also professional organizations are partners in negotiations beside the trade unions.

Negotiations can take place in form of exchange of letters in order to know each others position. There are three possibilities of outcome, agreements, protocols of divergence or resolution on future solutions.

Trade unions have 30 days for agreeing on a common position. If no agreement is reached within this period employers have the right to introduce own conditions.

Employers have the right to cancel a collective agreement three month before the end of a year for example when salaries can not be paid.

There is **no Works Council** In PKP Group or its companies.

The **Supervisory Board** of PKP Group is composed by one third with workers' representatives. They are directly elected by the employees. All elected workers' representatives are trade union members.

Based on national legislation trade unions are represented as well in the:

- **Commission for safety at work;**
- **Commission for social matters.**

*“Industrial conflicts are mainly arising from in the context of redundancies.”
(management)*

‘The social dialogue within PKP has a dialogue of high quality with a lot of contents and little emotions.’ (union representative)

Management expectations in regards to social dialogue:

- The Employer's position is determined by the financial condition of the company.
- The Employer is aiming at narrowing the Trade Unions' field of influence in the affairs of the company.
- The Employer is awaiting legal provisions requiring the Trade Unions to present a single, unified position during the negotiations.
- The position of the Trade Unions should be characterised by partnership and responsibility for the presented matters.

TRIPARTITE DIALOGUE at national and sector level

A Tripartite Commission for Social and Economic Affairs has been established at governmental level in 1994. This body discusses a wide range of items: Salaries, departure compensations but as well legislation. There are about 20 branch tripartite commissions in Poland.

In the railway sector a sector tripartite social dialogue has been established in September 2003 on the proposal of the trade unions. The partners are:

- Ministry of Infrastructure, Ministry of Economy, Labor and Social Policy, Ministry of Finance,
- the Union of PKP Employers as employers' association,
- trade unions.

The scope of this Tripartite Commission for the railways discusses strategic questions regarding the PKP Group and its development:

- Preparation of common statements on any matter important for the three partners;
- Preparation of common statements on issues regarding problems linked to further restructuring of PKP Group, the financial situation, state aid,
- Employees' matters connected with further restructuring of the Group. This includes social security packages for mass redundancies.

At the level of the tripartite sector dialogue three agreements were signed in 2003. However, differences in interpretation of the implementation of those agreements resulted in industrial conflicts.

‘Both, trade unions and employers evaluate this tripartite dialogue as very difficult often without obtaining results.’

4. CONCLUSIONS

Social Dialogue – a key to better governance

The conferences were marked by a great diversity of descriptions and situations and helped to acquire direct knowledge about the main players in social dialogue at national and European level, their organisational structures, their strategies and their problems. They contributed not only to a better understanding of the social and economic developments currently undergoing in the countries concerned and in the European Union, but also to give an insight into the capacity of the social partners in these countries to promote autonomous and politically effective social dialogue.

At European level Social Dialogue has entered a new era, moving from setting in place the tools (consultation on Community initiatives, possible negotiation of independent agreements, etc) enshrined in the Treaty towards coping with the strategy for economic and social modernisation and the new challenges which have emerged in conjunction with changes in society, employment and the world of work.

During the seminars, everyone has noted that dialogue is the only way of managing integration of economic and social needs. Social dialogue is the re-eminent European way for managing the market economy. It represents the very essence of the ‘European social model’. But it was also noted that social dialogue shall not be abused as an instrument to tackle the symptoms of a wrong policy.

European Social Dialogue in the railway sector is an instrument for

- better governance;
- managing change;

- defining minimum standards in order to ensure fair competition and avoid social dumping.

The European Commission's White Paper on European Governance

Within civil society, the social partners have a particular role and influence which flow from the very nature of the subjects they cover and the interests they represent in connection with the world of work.

Working conditions, definition of wage standard, continuing trainings, particularly in new technologies, organization of work and working time to reconcile flexibility and security are a few examples of specific topics which the social partners, as representatives of employees and employers, are entitled to deal with.

Implementation of the Lisbon strategy, based on an integrated economic and social policy agenda, has extended and recast the scope of the fields falling under their special responsibility.

The Treaty also recognizes the social partners' ability to undertake genuine independent social dialogue that is to negotiate independently agreements which become law. It is that ability to negotiate agreements which sets the social dialogue apart. Lastly the social partners may assume responsibility, at request, for transposing directives into national law. The latter often include provisions such that they can be adapted to specific situations.

Independent dialogue between European organizations was launched in 1985, the beginnings of a genuine European bargaining area. New ground was broken with entry into force of the Maastricht Treaty which formalized the social partners' participation in the preparation of Community law.

Today's European social dialogue covers these two essential functions, *consultation and negotiation*.

The Social Dialogue is a force for economic and social modernization. It has also taken on a new dimension with the advance of economic and monetary integration which fuels demand for dialogue, exchange and coordination in the area of industrial relations. Therefore the role of the social partners shall be strengthened.

The European Social Dialogue is the most modern way. The combination between autonomous social dialogue and involvement of the national and European social partners is important in order to ensure more balanced and more coherent economic and social development.

In its various forms in the different Member States, the social dialogue is a component of democratic government and also of economic and social modernisation. Social dialogue makes it possible to define the practical arrangements for reform which are economically efficient and socially acceptable.

The European Social Dialogue has arrived at a crossroad. It is a vehicle for core values of participation and responsibility bases on firmly-rooted national traditions and provides a suitable framework for managed modernisation, also in the new member states. To take on this role properly at European level, it needs, however, to broaden its practices, diversify its operational methods and use to best advantage the entire bargaining area.

Social Dialogue as an instrument of good governance in the European railway sector

The European railway sector is currently undergoing a deep restructuring process induced by EU legislation. The 1st Railway Package, the so-called Infrastructure Package, had to be implemented in national legislation until 15 March 2003. The 2nd Railway Package requires further restructuring until 30 April 2006 and the 3rd Railway Package is currently discussed in the European Parliament and the Council of Transport Ministers. In 2005 the European Railway Agency for railway safety and interoperability will start its work. It shall contribute to the creation of a “European railway culture”. EU railway legislation is marked by free market access (for rail freight transport until 2007) on the one hand and organisational restructuring with transfer of tasks from the companies to state authorities on the other hand.

In preparation of EU membership, EU conform railway legislation had been introduced in all new Member States. In the old member States this process is not completed in all countries yet. The main vision of the companies is the transformation to an effective and market oriented subject, transformation to a company based on private law and orientation to customer services and customer acceptance. However, governments and railway companies in Europe had different responses to the challenges of market competition and the requirements of EU Directives. The operational and structural reorganisation of these companies has been rather diverse.

With the enlargement of the European Union and the deep changes in the European railway sector also the European social dialogue receives a new dimension.

The European Social Partners have more responsibilities:

- to anticipate the social and safety dimension of the changes;
- to define social standards at the same European level;
- to monitor the developments;
- to identify common interests and act together towards European policy makers;
- to contribute in creating a European railway culture.

These responsibilities and challenges require that both social partners are reliable and strong in order to engage themselves in taking commitments at European level. An effective European social dialogue requires a high level of willingness to act European. New relations between traditional partners have to be created under a new framework. This is a condition for playing a role within European governance.

The railway social partners proved their capacity and will to strengthen their relation at European level by signing two agreements. This was an important first step.

Some voices from the social partners of the new Member States

'Our expectation from the European Social Dialogue is that the common positions, views, and agreements hammered out during the dialogue should facilitate the railways-related legislative, policy-making, and executive efforts of the EC by reflecting our interests. Furthermore, this dialogue should foster direct social dialogues and negotiations between the social partners of the sector.' (employer)

We expect from European Social Dialogue that it points to the need of the railways' development and does not obstruct but strengthen the development of economy and society.' (union)

:Liberalisation and deregulation of international and national railway traffic with its intention to establish the common railway market at the European Union level has to be accompanied by adequate national and international legislation, which must lead to increase the level of occupational and traffic safety. Traffic safety and safety of the workers are unquestionable for trade unions. We believe that the railway sectoral social dialogue developed at the EU level could be the right path. But on the other hand the cooperation between trade unions at the ETF level should be strengthened, especially among the neighbouring countries (unions).

We have to work together, more intensively. Everybody has to have a positive attitude towards the aims of the partners, accepting each other and coming to agreements. Social dialogue requires knowing each other better, at national and international level. (union)

'Our expectation from the European Social Dialogue is the identification of the basic principles of the social policy, a common perspectives for aimed management of human resources, a strategic support for European railway integration, transport policy and balanced economical and social development.' (employer)

Annex I : Different models of workers’ representation

trade unions only	trade unions (company level) or Works Councils	trade unions (sectoral) and Works Councils
Poland	Czech Republic Slovakia	Hungary Slovenia

Within the transformation process the countries of Central and Eastern Europe developed different systems of workers’ representation. In some countries national legislation provides for the election of works councils, other countries chose the model of workers’ representation by trade unions within the company. In some countries both models co-exist. The same models of workers’ representation exist in the old EU 15.

Trade union pluralism played an important role in the transformation process in all countries. This resulted in a high number of (small) trade unions, trade union fusions and separations and different forms of trade union cooperation within the same sector or company. This process is not finished yet.

In this context the national legislation on trade union representativity plays an important role and has a major influence on the social dialogues regards to signing collective agreements. Some countries have a clear legal definition of trade union representativity and legal instruments for appeal. In a few countries any trade union or professional organisation is recognised as social partner and legislation requires the signature of all workers’ organisations under a collective agreement.

The major role of the social partners requires the existence of strong, structured, and autonomous employers and worker organisations which have the full capacity of playing their negotiating role in the area of their competence in each country. This is valid as well for the task of social partners to act as a force for proposals regarding the integration of economic and social aspects.

Annex II: Different levels of social dialogue

	Tripartite dialogue at sector level	Bipartite dialoge at sector level	Bipartite dialogue company/site level	Works Council
Hungary	No	No	Yes	Yes
Slovenia	No	No	Yes	Yes
Slovakia	Yes	No	Yes	No
Czech Republic	No	No	Yes	No
Poland	Yes	no	Yes	No

Institutionalisation of the social partnership:

- Macro level: *Tripartite dialogue*, cross-sector and/or sector level
- Mezzo level: branch/company – sectoral and regional sphere (*Bipartite dialogue*)
- Micro level: work site (*Bipartite dialogue*)

Bipartism and Tripartism

Industrialised market economies do not have one single uniform model of labour relations, there exist bipartite and tripartite models.

Although there is no sharp dividing line between bipartism and tripartism, these two models have somewhat differing approaches as to how to maintain the cooperation of labour and capital.

While the first one is limited to the *relationship of workers (trade unions) and employers (employers' associations)*, the second one is characterized by the *state's - government's- direct presence in contacts between unions and employers*. The state's intervention is aimed at orienting these relations in predetermined directions by means of high-level tripartite – institutionalised or non-institutionalised – negotiations and consultations.

The bipartite and tripartite models of labour relations are not so much alternative as complementary. The existence of tripartism presupposes that of strong bipartism. The foundation on which successful and efficient national level tripartism (or interest reconciliation) can be based is provided by developed enterprise and sector (branch) level labour relations, including collective bargaining and agreements, as well as by strong trade unions and employers' organisations.

Tripartism, in its developed and institutionalised forms, is labelled "neo-corporatism" in some of the literature.

One should note that tripartite structures in Central and Eastern Europe are based in general on the internationally accepted principles of freedom of association and bargaining, and have very little if anything to do with this ill-famed corporatism.

Tripartism and the expanding world – a short history:

Tripartism, its birth and mission in Central and Eastern Europe has to be seen in the context of fundamental political and economic changes.

National tripartite institutions appeared on the scene and negotiations and consultations began between national governments, trade unions confederations and employers' associations.

This process started in Hungary, where the National Council for the Reconciliation of Interests was established in 1988 by the transitional Nemeth Government. The example was followed after the "velvet" revolution by Czechoslovakia, where Councils of Economic and Social Agreement were set up on the level of both the federation and the two republics (1990). Similar institutions appeared in Bulgaria (1990) and in several other countries. In Poland it was as late as 1992 that negotiations were started about a tripartite State Enterprise Pact, which led to the institutionalisation of contacts between the unions, employers and the government.

Annex III

Information Seminars in Budapest and Bratislava

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