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Germany's new Railway Act (AEG) violates EU law

Netzwerk Privatbahnen has commissioned international lawyers Hogan & Hartson Raue to lodge a complaint with the European Commission and urge the Commission to initiate legal proceedings against the Federal Republic of Germany for a so-called transposition infringement.

The main basis for the complaint is the claim that since its transposition of the so-called First Railway Package, which has been overdue since 2003, the Federal Republic of Germany has adopted a legislative approach that falls outside the scope of EU directives. Under Germany's new Railway Act (AEG), the particular approach taken by Germany leaves two functions of critical importance in the context of competition, namely train path allocation and charging, under the control of Deutsche Bahn (DB). However, EU directives 2001/12 and 2001/14 either provide for fully separate legal ownership of infrastructure companies and rail operators or – if the national legislator should decide against such institutional separation - stipulate that train path allocation and charging should be the responsibility of a neutral body separate from the rail operator. In 2005, when the AEG was reviewed, the German legislator decided against any institutional separation of the national rail network and its operation, opting instead to perpetuate the system dominated by the integrated group. To comply with the regulations, a neutral body should have been set up to independently execute the aforementioned functions, which are prone to discrimination. This is not foreseen by the AEG and hence competition is limited.

Netzwerk Privatbahnen is having the arguments drawn up for the European Commission with a view to ensuring that conditions of competition in Germany are fair and in line with EU legislation. This cannot be achieved without imposing pressure from Brussels.

Netzwerk Privatbahnen is an association of rail freight companies from several European countries. Its aim is to represent the interests of its members vis-à-vis politicians, administrations and the European Commission in a bid to guarantee fair competition on the railways. The members of Netzwerk Privatbahnen provide some 70% of rail-related transport services in Germany that are not delivered by the German state owned railway company DB AG.

Netzwerk Privatbahnen

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