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Liberalization of the European Union Rail Transport Markets: Challenges and Solutions

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Liberalization of the European Union Rail Transport Markets: Challenges and Solutions

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Summary. The processes of liberalization of railway transport markets in the European Union started at the end of the 20th century. The Member States of the European Union were encouraged to open the railway transport markets and create conditions for private carriers to compete with the state operators established in the market. Although the processes of liberalization of railway transport markets have been going on for several decades, the topic is still relevant for Lithuania, since in the Lithuanian railway transport market railway transport services, i.e. cargo and passenger transportation services, are provided only by national carriers. This means that railway transport services in Lithuania are basically concentrated in the hands of state carriers, while private operators currently do not provide services in this market. Annual studies by the European Commission show that Lithuania remains one of the last Member States of the European Union with a closed railway transport market. For this reason, it is relevant to examine what problems other Member States faced when opening their railway transport markets, and what can be learned from these problems in Lithuania. The author of the article, examining the practice of the Court of Justice of the European Union, found that the main factors hindering the liberalization processes are the inappropriate separation of public railway infrastructure management and transport service activities, and inappropriate implementation of the principles of capacity allocation and charging. In the opinion of the author of this article, the implementation of liberalization processes in the markets of Member States can be ensured by properly adapted legal regulation that meets the needs of the relevant market, proper implementation of railway management model chosen by the Member State, and a strong role of the regulatory body.
Keywords: railway transport, liberalization, non-discriminatory access, competition.

Europos Sąjungos geležinkelių transporto rinkų liberalizavimas: iššūkiai ir sprendimai

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Santrauka. Geležinkelių transporto rinkų liberalizavimas Europos Sąjungoje prasidėjo XX amžiaus pabaigoje. Europos Sąjungos valstybės narės yra skatinamos atverti geležinkelių transporto rinkas ir sudaryti sąlygas privatiems vežėjams konkuruoti su rinkoje įsitvirtinusiais valstybiniais operatoriais. Nors geležinkelių transporto rinkų liberalizavimas vyksta jau ne vieną dešimtmetį, ši tema vis dar aktuali Lietuvai, kadangi Lietuvos geležinkelių transporto rinkoje geležinkelių

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transporto paslaugas, t. y. krovinių ir keleivių bei bagažo vežimo paslaugas, yra monopolizavę nacionaliniai vežėjai. Tai reiškia, kad Lietuvoje geležinkelių transporto paslaugos iš esmės yra sutelktos valstybinių vežėjų rankose, o privatūs operatoriai šioje rinkoje vis dar susiduria su sunkumais. Europos Komisijos kasmet atliekami tyrimai rodo, jog Lietuva lieka viena iš paskutinių Europos Sąjungos valstybių narių, kurių geležinkelių transporto rinka yra uždara. Dėl to aktualu panagrinėti, su kokiomis problemomis susidūrė Europos Sąjungos valstybės narės, atverdamos savo geležinkelių transporto rinkas, ir ko iš šių problemų galima pasimokyti Lietuvoje. Straipsnio autorius, nagrinėdamas Europos Sąjungos Teisingumo Teismo praktiką, nustatė, kad pagrindiniai liberalizacijos procesus stabdantys veiksniai yra netinkamas viešosios geležinkelių infrastruktūros valdymo bei transporto paslaugų veiklos atskyrimas, netinkamai įgyvendinami pajėgumo paskirstymo bei apmokestinimo principai. Straipsnio autoriaus vertinimu, valstybių narių rinkų liberalizavimo įgyvendinimą gali užtikrinti tinkamai pritaikytas atitinkamos rinkos poreikius atliepiantis teisinis reguliavimas, infrastruktūros valdymo ir transporto paslaugų teikimo veiklos atskyrimas bei stiprus priežiūros institucijos vaidmuo.
Pagrindiniai žodžiai: geležinkelių transportas, liberalizacija, nediskriminacinė prieiga, konkurencija.

Introduction

One of the goals of the European Union (hereinafter referred as the EU) is to create a Common European Transport Area (The Fourth Railway Package…, 2013). The European Commission (hereinafter referred to as the EC) states that the creation of a Common European Transport Area would facilitate the movement of citizens and goods, reduce costs, and increase the coherence of European transport. For this reason, the EC has set a goal that 30% of road freight over 300 km should shift to other modes such as rail or waterborne transport by 2030, and more than 50% by 2050 (White Paper…, 2011).

Today, railway transport is one of the modes of transport whose potential has not yet been fully exploited. The EC notes that increased use of railways is crucial to meet the demand for more sustainable transport (Seventh Monitoring Report…, 2021).

The liberalization of railway transport markets, which began in the EU at the end of the 20th century, greatly influences the utilization of the railway transport potential (The European Rail Freight Market…, 2022). Market liberalization must ensure non-discriminatory access to railway infrastructure for new carriers and a greater number of railway operators in the markets. In this context, it is relevant that although there are already a dozen carriers operating in the markets of some Member States, in some Member States, the markets for railway transport services are still closed. In 2018, the market share of competitors in Member States was more than 30% (Seventh Monitoring Report…, 2021). The absence of competition in the markets may signal an inappropriate implementation of the liberalization processes.

The purpose of this article is to reveal the main obstacles to the liberalization of the railway transport market and present possible solutions to the problems after examining the case law of the Court of Justice of the European Union (hereinafter referred to as the CJEU). To achieve the aforementioned goal, it is intended to implement the following tasks: firstly, to analyze the case law of the CJEU related to the liberalization of the railway transport markets in the European Union; secondly, to identify the factors hindering the liberalization of the EU's railway transport markets and to specify the essential prerequisites for successful liberalization.

The study is significant because in Lithuania the problems of opening up the railway transport services market and the practice of the CJEU in this matter have not been studied, which may be an important reason why there is still no competition in this market.

The research was carried out using traditional text analysis (linguistic), logical, comparative, teleological, and statistical methods.

1. Legal basis for the liberalization of railway transport markets

The need to liberalize rail transport markets and create conditions for private carriers to provide rail transport services in the EU emerged at the end of the 20th century. On that basis, the EU adopted sets of legal acts in the field of rail transport, also known as rail transport packages:

The First Railway Package was adopted in 1998. The package, consisting of three directives, provided all railway undertakings licensed based on Community criteria with equal and non-discriminatory access to the railway infrastructure to offer services in all of Europe. The package has led to a major overhaul of the sector's legislation to ensure its integration into the European area and to allow it to compete with other modes on the most favourable terms. The provisions of the First Railway Package sought to ensure the independence of the infrastructure manager from the railway undertakings, non-discriminatory track access charges, and the establishment of a regulatory authority to remove obstacles to competition for the use of railway infrastructure.

The Second Railway Package, covering three directives and a regulation, adopted in 2004, provided for a wider opening of the freight market, promoting liberalization and harmonization of technical standards.

The Third Railway Package, consisting of two directives and two regulations, was adopted in 2007. It provided for the full opening of international passenger services as well as for the licensing of railway drivers, rail passengers' rights regulation, etc.

The Fourth Railway Package, consisting of three directives and three regulations, was adopted in 2016. One of the main aims was to create a single market for railway services. This package is relevant to the subject under consideration as it lays down the main requirements for the liberalization processes.

2. Factors hindering liberalization

In the following, the author of the article will review the essential factors hindering liberalization, which emerged during the examination of the practice of the CJEU.

2.1. Improper separation of infrastructure management and transport service provision

In order to ensure non-discriminatory conditions for new carriers, it is required to separate activities of public railway infrastructure management and railway transport services. The essential principles of separation of infrastructure management and transport services are indicated in Art. 6-7d of Directive 2012/34/EU.

The CJEU has repeatedly had to deal with cases where questions arose regarding the proper separation of infrastructure management and transport service activities. As indicated in the jurisprudence of the CJEU, Directive 91/440/EEC initiated the liberalization of rail transport by seeking to ensure fair and non-discriminatory access to the infrastructure for rail undertakings. In order to ensure such access, the first paragraph of Art. 6(3) of Directive 91/440/EEC [Art. 7a(1) of Directive 2012/34/EU] provides that Member States must take the measures necessary to ensure that the functions determining equitable and non-discriminatory access to infrastructure, listed in Annex II [Art. 3(2f) of Directive 2012/34/EU], are entrusted to bodies or firms that do not themselves provide any rail transport services and that, regardless of the organisational structures, this objective must be shown to have been achieved (EC v Grand Duchy of Luxembourg, C-412/11, p. 32).

In another case examined by the CJEU, the EC alleged that the French Republic had failed to fulfill its obligations. The CJEU considered that a railway undertaking may not be entrusted with

conducting the technical implementation studies necessary for scrutinizing applications for train paths carried out before a decision is taken and for the last-minute allocation of train paths, because those studies form part of the definition and assessment of the availability of train paths, and because the last-minute allocation of train paths constitutes an allocation of individual train paths; those functions must therefore be entrusted to an independent body. Because of this, the CJEU found that the French Republic failed to fulfill its obligations under Art. 6(3) and Annex II of Directive 91/440/EEC and Art. 14(2) of Directive 2001/14 [Art. 7a(1), 3(2f), 39(1) of Directive 2012/34/EU] (EC v French Republic, C-625/10, pp. 41, 45, 47, 88).

On the other hand, the CJEU has noted that railway companies have an independent status, so, for example, the requirement established in Portugal for railway companies to obtain prior authorization from the Minister of Transport for the transfer of shares is excessive. The CJEU assessed that although it is true that Art. 5(3) of Directive 91/440/EEC [Art. 5(3) of Directive 2012/34/EU] allows Member States to establish general policy guidelines, nevertheless, to achieve the management of railway transport undertakings independence, the state must not have any influence on the individual decisions of those companies regarding the transfer or acquisition of shares (EC v Portuguese Republic, C-557/10, p. 38).

Art. 6(1) of Directive 2012/34/EU requires that Member States ensure that separate profit and loss accounts and balance sheets are kept and published. In this regard, the practice of the CJEU explains that the EU legislature's intention was to oblige railway undertakings providing railway transport services and managing railway infrastructure not only to enter such funds into the accounts, to ensure that they can be monitored in the accounts, but also to publish those accounts in order, *inter alia*, to ensure that the information relating to the funds is publicly available, which should make it possible to verify objectively that there is no cross-subsidisation between rail infrastructure management and railway transport activities. The CJEU found that the Federal Republic of Germany has failed to fulfill its obligations. (EC v Federal Republic of Germany, C-482/14, p. 61-65).

Thus, Member States must ensure proper separation of railway infrastructure management and rail transport services to create conditions for transparent capacity allocation and non-discriminatory access to the infrastructure by new carriers. The inappropriate separation of the mentioned activities is one of the main factors stopping the liberalization processes.

2.2. Improper capacity allocation of public railway infrastructure

According to Art. 38 of Directive 2012/34/EU, infrastructure capacity is allocated by the infrastructure manager. The jurisprudence of the CJEU explains that the infrastructure manager first of all ensures that infrastructure capacity is allocated impartially and without discrimination and in compliance with the EU law (EC v Kingdom of Spain, C-483/10, p. 94).

There are cases where the respective railway line seeks to use several carriers, but it is not possible to coordinate the applications of these carriers. In this case, the railway lines are recognized as overcrowded and the priority criteria set by each Member State are applied (Art. 47 of Directive 2012/34/EU). The case law of the CJEU shows that when establishing these criteria, cases of discrimination against new railway operators are also encountered. For example, such a priority criterion, which takes into account past or future capacity utilization, is recognized by the CJEU as preserving the advantage of regular users and limiting the access of new carriers to the infrastructure (EC v Kingdom of Spain, C-483/10, p. 95). Creation of more favourable conditions for the incumbent operator is not among the measures provided for in this directive [2012/34/EU] to promote the efficient use of the network (Opinion of Advocate General N. Jaaskinen, C-483/10, p. 97).

It is relevant that since 2017, railway lines in Lithuania have been recognized as overcrowded, so priority criteria must be applied. Currently, regarding the priority criteria applied in Lithuania, the Supreme Administrative Court of Lithuania has applied to the CJEU for a preliminary ruling, asking to clarify whether the priority criteria applied in Lithuania did not limit private carriers (Ruling of the Supreme Administrative Court of Lithuania of 05.11.2021).

When the lines are recognized as overcrowded, the public railway infrastructure manager, if the capacity increase plan is not yet implemented, must carry out a capacity analysis (Art. 47(2) of the Directive 2012/34/EU). This means that the public railway infrastructure manager must strive to ensure that the capacity of the public railway infrastructure is sufficient. It should be appreciated that insufficiently developed railway roads or sections, called *bottlenecks*, can be an important reason for which new market participants do not enter the market and cannot start providing services (Reforming infrastructure: Privatization, regulation and…, 2004, p. 275).

Thus, in order to open up the market for new railway operators, it is extremely important that the manager of the public railway infrastructure allocates capacity transparently, applies non-discriminatory priority criteria, and, in the case of insufficient capacity of railway lines, promptly implements the necessary capacity increase projects.

2.3. Improper implementation of charging principles

Directive 2012/34/EU establishes requirements related to the determination and collection of charges. The jurisprudence of the CJEU explains that the infrastructure managers, who are required to set and collect charges in a non-discriminatory manner, must not only apply the same conditions for the use of the railway network to all network users but also ensure that the charges actually collected comply with these conditions (ORLEN KolTrans sp. Z o.o., C-563/20, p. 53).

Pursuant to Art. 29(1) of Directive 2012/34/EU, Member States shall establish a charging framework while respecting the management independence. According to this provision, the infrastructure manager must, firstly, set a charge for the use of the infrastructure and, secondly, collect that charge (EC v Kingdom of Spain, C-483/10, p. 39).

It should be noted that the charges collected for the minimum access package must be equal to the costs directly incurred for the operation of the trains. For example, in one of the cases, the CJEU considered that Hungary failed to fulfill its obligations under Art. 7(3) of Directive 2001/14/EC [Art. 31(3) of Directive 2012/34/EU], because Hungarian legislation did not establish a method of calculating charges based on direct costs (EC v Hungary, C-473/10, p. 103-107). In another case, the CJEU found that the Republic of Bulgaria failed to fulfill its obligations because, to calculate the charge collected for the provision of the minimum access package, it took into account the costs related to employee salaries and social security contributions, which cannot be considered directly related to the provision of railway services (EC v Republic of Bulgaria, C-152/12, p. 70). The CJEU also considered that the Republic of Poland, by allowing into the calculation of charges for the minimum access package and access to railway infrastructure to include costs that cannot be considered directly attributable to a certain rail transport service, breached its obligations under Art. 7(3) of Directive 2001/14/EC [Art. 31(3) of Directive 2012/34/EU] (EC v Republic of Poland, C-512/10, p. 82-84).

It is relevant that based on Art. 30(1) of Directive 2012/34/EU, infrastructure managers are encouraged to reduce infrastructure provision costs and the amount of charges for access to railway infrastructure. For example, the CJEU has found that the Republic of Poland, by not adopting measures aimed at encouraging the railway infrastructure manager to reduce the costs of infrastructure provision

and the level of access charges, failed to fulfill its obligations under Art. 6(2) of Directive 2001/14/EC [Art. 30(1) of Directive 2012/34/EU] (EC v Republic of Poland, C-512/10, p. 90).

There are exceptions to the above principles. For example, in order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups (Art. 32(1) of Directive 2012/34/EU). When assessing the legal regulation of markups, the CJEU has stated that, although the Member States are not required to lay down in their national legislation the detailed rules under which the infrastructure manager must determine the capacity of market segments to bear any increase in costs and the circumstances in which it is required to do so, to obtain full recovery of the costs incurred by the infrastructure manager, it is necessary to verify whether each of the market segments can actually bear mark-ups (EC v Republic of Slovenia, C-627/10, p. 70-71). In another case, the CJEU clarified that the state may recover infrastructure costs in full by means of mark-ups if the market can bear this and if in so doing it does not exclude the use of infrastructure by market segments that can pay at least the cost that is directly incurred as a result of operating the railway service, plus a rate of return (EC v Federal Republic of Germany, C-556/10, p. 84-88).

The analysis of the cases of the CJEU shows that most of the cases are specifically related to improperly implemented requirements of the Member States in the field of charging. It should be appreciated that the processes of railway transport liberalization may suffer if the Member States do not properly calculate or collect charges. For example, charging unreasonably high infrastructure charges may prevent new carriers from entering the market. Some of the highest access charges are paid in Lithuania. For example, in 2021 railway companies in six Member States paid less than EUR 1 per ton-kilometer. Meanwhile, railway companies in Lithuania paid an average of 11 EUR per ton-kilometer (Eleventh Annual Market Monitoring Report, 2023).

Thus, it should be appreciated that extremely high or improperly calculated access charges can be one of the factors limiting the access of new carriers to the infrastructure.

3. The key to successful liberalization

After identifying the fundamental reasons why the liberalization processes in the markets of the Member States may be stuck, it is important to identify the factors that can encourage the implementation of the liberalization.

3.1. Adaptation of legal regulation to a specific market

It is important to note that rail infrastructure is limited in scope, so not all interested carriers can gain access to these limited resources. For this reason, it is important to properly identify which services are in greater demand in the respective Member State and shape the legal regulation accordingly. Although Directive 2012/34/EU sets essential requirements for railway management, each Member State must establish its own legal regulation, which corresponds to the main rules of legal regulation of the EU.

It is relevant that the demand for railway transport services differs in different markets. Some Member States have a higher demand for passenger and baggage transport, while others have a higher demand for cargo. For example, Slovenia and Lithuania are the Member States with more intensive freight services than passenger services in 2021. Meanwhile, in the countries with larger flows of people, passenger transportation services may be more in demand. For example, in 2021, the most intensive passenger transportation services by rail transport were provided in the Netherlands, Switzerland,

Denmark, and the UK (Eleventh Annual Market Monitoring Report, 2023). This can encourage the creation of more passenger transport operators.

In this regard, it is important to identify which services are in greater demand in the market and shape the legal regulation accordingly. For example, if there is competition between passenger and freight transport in the market, priority could be given to passenger transport in case of congested lines. If passenger transportation services are more in demand, the priority criteria should be formed according to the needs of the respective route. If, after all, a larger share of the market is occupied by cargo transportation, the priority rules could be focused on the frequency of transported cargo, the length of the train, etc.

In markets where the monopoly carrier is still strong, the problem of insufficient infrastructure resources could be solved by the application of the principle of proportionality. This means that infrastructure capacity could be allocated to carriers in proportion to their applications.

It should be noted that in Lithuania, for example, when setting the priority criteria (Order of the Minister of Transport and Communications of the Republic of Lithuania of 04/09/2020), the example of German legal regulation was taken as the basis. More operators are operating in the German rail transport market than in Lithuania, so a big competition has already formed between them. It should be noted that such legal acts by analogy may not work properly in Lithuania, where there is still no competition between carriers, and the access of new operators to the infrastructure should be encouraged. In this regard, to open up the market, the priority criteria could be formed based on the principle of proportionality, rather than giving the right of priority to a carrier, for example, intending to operate more intensively or whose fees for the use of the infrastructure would be higher.

Thus, it is extremely important to properly assess the specifics of the market and its needs, in order to determine the appropriate legal regulation. Ignoring the needs of the market can lead to the slowdown of liberalization processes.

3.2. Appropriate implementation of railway management model

To ensure appropriate conditions for the liberalization of railway transport, Member States are obliged to choose an appropriate railway management model. It is unrealistic for one model to be applied to all Member States, so each can choose the most acceptable management model (Hojnik, 2016, p. 11).

Railway management models are basically distinguished according to the relationship between the management of railway infrastructure and the provision of railway transport services. On this basis, the following models can be chosen:

1) Separated management model (vertical unbundling), where the infrastructure manager is separated from the companies providing railway services.
2) Integrated management model (vertical integration), based on the holding principle, where the infrastructure manager and companies providing rail transport services belong to the same organization, but other operators can also provide their services by paying the appropriate charges.

In both cases, it is necessary to ensure proper separation of infrastructure management and the provision of transport services under the provisions of Directive 2012/34/EU.

It should be noted that the integrated management model has received considerable criticism for restricting competition. For example, incumbent freight operators can exploit their market position and this may lead to conflicts of interest in areas such as access to terminals and other facilities, train path allocation, maintenance of rolling stock, etc. (Special Report. Rail freight…, 2016). However,

competition can exist without separation. But separation can be a catalyst for competition and for facilitating the entry of other rail operators (Profillidis, 2014, p. 77).

From a competition standpoint, one of the major advantages of vertical separation is that it ensures a level playing field between different operators when no operator has more control over the infrastructure than others (Rail structures, ownership and reform, 2017, p. 16). A separated management model can be considered when it is seeking to protect non-discriminatory access to rail infrastructure as the charging or capacity allocation body of an integrated railway undertaking seeks to favor its own carrier, while an independent infrastructure manager will normally seek commercial benefits and has an incentive to satisfy applications from both new and established carriers (The impact of separation…, 2011). However, the choice of a separated management model poses greater challenges for the state as it loses control over the provision of services that could be maintained by an integrated management model. The states that consider the implementation of a separated management model often reject it as to complex or endangering some of the integration benefits, such as being closer to the end customer, coordinating public rail infrastructure, managing emergencies, etc. (Railway Reform: Toolkit for…, 2017).

Thus, proper implementation of railway management model is a necessary condition for the formation and development of competition in the market. Without ensuring the proper separation of the infrastructure management and transport services, the risk increases that the public railway infrastructure manager will discriminate against new operators and patronize the market incumbents.

3.3. A strong role of the regulatory body

Strong and independent railway regulatory bodies with the power to make effective decisions on market access and charging are also essential to create fair and non-discriminatory market access conditions.

Directive 2012/34/EU establishes a significant role of the market regulatory body – it is entrusted with ensuring fair competition in the relevant rail transport market.

The jurisprudence of the CJEU recognizes that to ensure effective management of railway infrastructure and proper and non-discriminatory use, it is necessary to establish a regulatory authority that would be responsible for supervising the application of EU law and, regardless of the possibility of judicial control, would act as a complaint handling authority. Member States must establish such an institution, to which an applicant has a right of appeal if it believes that it has been unfairly treated, discriminated against, or is in any other way aggrieved (CTL Logistics GmbH v DB Netz AG, C-489/15, p. 56).

It is relevant that regulatory bodies have been given the competence to monitor the state of competition in railway service markets. In this regard, the CJEU has stated that the regulatory body's power to monitor the application is not subject to the lodging of a complaint or an action and may therefore be exercised *ex officio* (AS "LatRailNet", C -144/20, p. 37). The efficient management and fair and non-discriminatory use of railway infrastructure requires the establishment of an authority which is responsible, at the same time, for overseeing, on its own initiative, the application by the stakeholders in the railway sector and for acting as an appeal body (CityRail a.s. v Sprava železnik, C-453/20, p. 57, 60). In another case, the CJEU said that when deciding whether the regulatory body is allowed to conduct investigations on its own initiative when no complaint has been filed and when there is no specific reason or suspicion that a violation has been committed, it should be recalled that the regulatory body or any other body enjoying the same degree of independence, is to monitor the competition in the rail services markets, including the rail freight transport market (EC v Federal Republic of Germany, C-556/10, p. 125).

In its jurisprudence, the CJEU has provided clarifications on the legal status and appeal of decisions taken by the regulatory body. As the CJEU points out, the decisions of the regulatory body have legal effects for all parties involved in the railway sector, whether they are transport undertakings or infrastructure managers. In this way, the regulatory body can ensure that all interested undertakings have equal access to the infrastructure and that fair competition is maintained in the rail service sector (CTL Logistics GmbH v DB Netz AG, C-489/15, p. 94, 96). The jurisprudence of the CJEU also explains that the administrative decisions adopted by the regulatory body can only be subject to judicial review. Therefore, it is prohibited that the decisions of the regulatory authority were subject to mandatory review by another administrative authority before a possible judicial review (EC v Czech Republic, C-545/10, p. 100, p. 102-104).

Thus, to properly implement the liberalization processes in the Member States, a very important role is played by the regulatory bodies, which have the duty to evaluate the aspects of granting access and determining and collecting charges not only based on submitted complaints but also to initiate investigations on their own initiative.

Conclusions

1. The potential of railways as a mode of transport has not yet been fully exploited. The development of railways could be stimulated by properly implemented processes of liberalization in the markets of the Member States. The liberalization of railway transport markets in the EU has been going on for about three decades but some Member States are still facing the problems of opening up their markets to private railway operators.
2. Railway liberalization processes in the Member States are hindered by such factors as improper separation of infrastructure management services and transport service provision activities, improper implementation of public railway infrastructure capacity, and charging principles. The practice of the CJEU shows that these factors can complicate the implementation of liberalization processes in the Member States of the EU.
3. Certain factors can encourage the successful implementation of liberalization processes. It should be emphasized that determination of appropriate legal regulation in the Member States, i.e. adaptation of legal regulation according to the specifics and needs of the market, is important for the implementation of railway transport liberalization processes. The proper implementation of the railway management model chosen by the Member State and the strong role of the regulatory body is also significant for the transparent opening of the market and ensuring competition in it.

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