

# EU Transport Policy

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The history of European transport policy can be broadly divided into two main periods: the first covers the period from the '50s to the '80s, and the second from the late '80s onwards. At the early stage, transport policies were mainly within the competence of Member States, and their evolution followed national priorities. As in the other network industries, up to the 1980s transport operators were generally publicly owned, they enjoyed (local, regional and national) monopolies and their operations were strongly influenced by public service oriented policies. After the 1980s network industries were challenged by neo-liberal ideas of competition, technological progress (mainly in the telecommunications sector) and, most of all, by the European Union that, in the meantime, had acquired new powers in matters of infrastructures in general and of transport in particular. After some 30 years of relative paralysis of the European institutions in matters of infrastructures, the European Union endeavoured, as of the middle of the 1980s, to create the single European market also in the different infrastructures, including transport.

## **1. From the 1950s to the 1980s: the missing EU transport policy**

The 1957 Treaty of Rome (Treaty establishing the European Economic Community, signed in Rome on 25 March 1957) had identified transport as one of the Community's main common policies. Since the entering into force of the Treaty in 1958, European policy focused on the free movement of people, capital, goods and services. Yet, the full application of this fundamental principle to transport was severely limited by Title IV of the Treaty (Art. 61, Arts. 74-84), which basically left transport policy in the hands of the Member States. If there were international transport initiatives, they came from the transport industry itself (for example, the Community European Railways (CER), which proposed the realization of an international network of high-speed trains).

In the 1980s the European Parliament asked the European Court of Justice to recognize the inefficiency of the European Council in promoting a European Transport Policy (see Judgment in Case 13/83, 22 May 1985). The European Court of Justice subsequently urged the Council to act, which marks the beginning of a truly common transport policy in Europe. The year after, the so-called Single European Act laid the grounds for potentially removing physical barriers, reducing technical barriers and creating common financing and fiscal principles in transport, as well as in the other infrastructures.

Despite the subsequent efforts of the Commission to put forward a proposal for a medium term-plan, the Council of Ministers was still reluctant to act, mainly because of national interests (Banister, 2000, p. 58). In 1988 the Commission managed to promote a (modest) plan for a limited number of projects, funded by the European Regional Development Fund (ERDF) and the European Investment Bank (EIB). However, across the EU there was still no coherent infrastructure policy, since the ERDF funds were available only for a limited number of eligible regions, and the EIB loans were distributed according to a list of precise priorities and not according to a comprehensive plan.

## **2. Maastricht Treaty: transport as a pivotal element for the creation of a Single European Market**

Things changed radically with the so-called 1992 Maastricht Treaty (Treaty on the European Union, signed at Maastricht on 7 February 1992, OJ 92/C 191/01), which put much bigger emphasis on the “completion” of the Single European Market. The Maastricht Treaty represents the turning point in the European common transport policy. Not only did it create the political, institutional and budgetary foundations for such a transport policy, moreover it introduced the concept of Trans-European Network(s)

(TEN), a comprehensive plan for transport, energy and telecommunication infrastructures at the European level, including Community funding for such networks<sup>1</sup>). Subsequently, the so-called TEN-T (transport) projects were codified. There was a distinction between 30 Priority Axes and other horizontal priorities, and the text defined a set of “*projects of common interest, the purpose of which [was] to ensure the cohesion, interconnection and interoperability of the trans-European transport network, as well as access to that network*” (European Parliament and the Council, 1996, p.1.2). In addition, the Maastricht Treaty was complemented by the 1992 White Paper (European Commission, 1992), in which the EU proposed to establish and develop a “*Trans-European Transport Network, within a framework of a system of open and competitive markets, through the promotion of interconnections and inter-operability of national networks and*

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1) The Maastricht Treaty officially created the European Union (before: European Community). The Treaty explicitly referred to transport policy, which became now governed by the so-called “Community method”, thus reinforcing its supranational dimension. Concretely, this means the replacement of unanimity by qualified majority, the introduction of the co-decision procedure involving the European Parliament, and moreover the inclusion of the concept of Trans-European Networks, which made it possible to come up with a plan for transport throughout the Member States with the help of Community funding.

*access thereto. It must take particular account of the need to link island, landlocked and peripheral regions with the central regions of the Community*” (European Commission, 1992, p. 140).

As of 1995, the Commission somehow reoriented the focus of its infrastructure policies by putting greater emphasis on social cohesion, sustainability, intermodality, safety, quality, and accession countries. These new “principles”, together with the original ones (e.g., single market and trans-European networks) were particularly visible in the case of the Common Transport Policy. In part because of the rapidly changing geopolitical and spatial dimensions of the European Union, the Common Transport Policy came to play an absolutely critical role in matters of unifying the various European regions into a single market (Ross, 1998, p. 4).

This new Common Transport Policy crystalized in the 2001 White Paper (European Commission, 2001), a key document where the Commission proposes 60 measures aimed at developing a European transport system. Particular attention was paid to modal shift, i.e., to establish a “balance” between the modes of transport by way of creating competition, eliminating bottlenecks, and placing the user at the heart of the European transport system.

Approaching the end of the ten-year period covered by the 2001 White Paper, the European Commission made an assessment of the Common Transport Policy, concluding that the European Transport Policy “*ha(d) largely achieved the objectives*” set out in the 2001 White Paper. Namely, it had contributed to the development of the European economy and its competitiveness, to market opening and integration, to high quality standards for safety, security and passenger rights, as well as to better working conditions (European Commission, 2009). In its Communication, the European Commission prepared the grounds for the 2011 White Paper, which ever since is the reference document for the transport policy at the EU level. Also, let us mention that in 2007 the Rome (1957) and the Maastricht (1992) Treaties were amended by the so-called Lisbon Treaty (2007), which listed transport as being one of the sectors of shared competence between the European Union and its Member States.

### **3. Current situation**

Since 2011, the overarching goal of the European Union is the creation of a Single European Transport Area (SETA) and the completion of the Internal Market for the transport of goods and passengers by removing major barriers to transport operations and promoting safe, efficient and environmentally sound and user-friendly transport services without curbing mobility. This goal was outlined in these terms in the 2011 White Paper (European Commission, 2011c), accompanying Staff Working Document (European Commission, 2011b) and the Single Market Act II (European Commission, 2012a).

Today, the EU transport *acquis communautaire* covers the transport sectors of aviation, railways,

road (freight and passenger), urban public transport, inland waterways and short sea shipping, as well as intermodal transport. It also addresses horizontal issues common to all transport modes, such as market liberalisation, state aid control and competition rules, ownership transformation, independent regulation, multi- and co-modality along with technical, safety and social standards. Yet, liberalization — or more precisely de- and re-regulation — appears to be the most significant policy in all the different transport modes over the past 20 years.

Indeed, and over the past 20 years, all transport sectors and all EU member States have experienced liberalisation (Finger & Holvad, 2013, p. 21). Differences among countries and sectors can mainly be explained by different starting points. EU legislation has aimed at promoting fair and effective competition, and Member States were obliged to end their national monopolies over supply. Furthermore, the application of general competition law to the different network industries has had direct consequences on national subsidies (e.g., State aid), as prescribed by the EU legislative package on Services of General Economic Interest and EU competition law applicable to transport (European Commission, 2012b). One key element of European network industry and transport liberalization is the principle of unbundling, which separates the non-competitive part of a network industry (typically the infrastructure) from the competitive part (typically the services). However, it is clear in the mind of the European Union that such vertical separation alone does not guarantee fair competition and the role of the regulator is crucial when liberalizing the transport infrastructures and the network industries more generally.

Aviation is probably the transport sector where liberalisation is most advanced. Such liberalization dates back to 1987. As of 1997, freedom to provide “cabotage” (i.e., the right for an airline of one Member State to operate a route within another Member State) is guaranteed, thus fully liberalizing Europe’s internal air transport market. However, difficulties for competition remain and are mainly related to the role of airports and air traffic control (Finger, Glachant, Parcu, & Saussier, 2015, p. 42). To overcome these difficulties, the EU has launched new initiatives, such as the “Single European Sky” initiative as well as the “Better Airports Package”, covering slot allocation, ground-handling and noise (European Commission, 2011a).

Liberalisation in the rail sector, even though it started earlier, has advanced more slowly: in theory both the freight and the international passenger markets are open to competition, and in some countries this is even the case of domestic passenger services. However, many obstacles to a truly internal railway market persist, so that the Commission is still preoccupied with the implementation of the first railway package of 2004 (European Commission, 2012c), while at the same time already discussing a fourth railway package (European Commission, 2013a).

Road haulage, in turn, is fairly liberalized, whereas inter-urban road passenger transport has only recently been open to competition. The most recent Regulation on haulage (European Parliament and the Council, 2009) was aimed at modernising, simplifying and streamlining rules in the road haulage transport

sector in order to improve the overall efficiency of the sector and to ensure fair competition in Europe. However, differences in implementation and enforcement persist (Bayliss, 2012). As for urban public transport, recent EU efforts in matters of compulsory competitive tendering are expected to somewhat liberalize the sector.

The market for inland waterways transportation and for short sea shipping and maritime services is now liberalised throughout Europe, and competition in the shipping sector increased significantly over the past years. However, inconsistencies between administrative barriers as well as measures related to ports still prevent full market opening. The most recent Communication from the European Commission in this sense was published in 2013 (European Commission, 2013b) and specific proposals for market access to port services have been formulated (European Commission, 2013c).

Two cross-cutting issues are especially worth mentioning, namely ownership transformation and regulation. In contradistinction to systematic market opening principles, there is no EU-wide policy in matters of privatization, be it in transport or elsewhere. Rather, there is a hope that competition and regulation will make public enterprises as efficient as private ones. On the other hand, regulation, in particular sector-specific regulation of the different transport modes at both the national and the European levels, has emerged as the privileged tool of the European Commission, not only to liberalize the different transport sectors, but moreover to create the Single European Transport Area.

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