

Paris, 3 January 2017

Bus services in Nouvelle Aquitaine: the French Council of State approves two Arafer opinions

In two decisions of 23 December 2016, the French Council of State approved two opinions from the Rail & road regulatory body (Arafer), declaring that the bus routes declared by FlixBus between Limoges and Brive-la-Gaillarde, and between Niort and Poitiers did not substantially impair the economic balance of the regional train services (TER) in the Aquitaine-Limousin-Poitou-Charentes region (now known as "Nouvelle Aquitaine").

In its two opinions of 17 February and 8 March 2016, Arafer concluded that the plans for bus services declared by FlixBus between Limoges and Brive la Gaillarde, and between Niort and Poitiers did not significantly impact the economic balance of the Limoges-Brive and Poitiers-La Rochelle train services concerned and, therefore, did not justify a prohibition measure.

The Nouvelle Aquitaine region, the transport authority for the TER services, made a challenge to the Council of State regarding the methodology used by Arafer to assess this economic impact and to come up with the estimated figure.

On these two points, the judges rejected the region's argument and confirmed the reasoning followed by the regulator.

The Council of State confirmed in particular that, in order to assess the nature of the impact with the economic balance of the TER service, Arafer may assess the loss of commercial revenues resulting from the switch of customers from TER to bus services, taking into account not only the commercial revenues of the TER but also of the amount of the subsidy paid by the Region to this public transport service.

In addition, the Council of State approves the estimated loss of revenues arrived at by Arafer in the two contested opinions by confirming that, in order to assess the switch of passengers from TER to bus services, the regulator may take into account the fact that the bus connections declared by Flixbus fall within the scope of long distance routes.

The Council of State confirms in its two decisions that Arafer's estimate of the loss of commercial revenue does not lead to the conclusion that there was any substantial impact on the economic balance of the TER service.

- Consult the decisions of the Council of State n° [399723](#) et n° [399081](#)
- [Press release in pdf format](#) (in French)

About Arafer

Since 2010, the French railway sector has had an independent regulatory body which accompanies its gradual opening to competition. The “Macron” Act of 6 August 2015 extends the powers of the regulator to road activities: coach transport and motorways.

On 15 October 2015, the rail regulatory body became the rail and road regulatory body (Arafer). Its mission is to contribute to the efficient operation of the public service and competitive activities for the benefit of rail and road transport customers. Its public opinions and decisions are adopted by a group composed of seven independent members chosen due to their expertise in railway, road, legal or economic matters or because of their expertise in competition matters and has been chaired since August 2016 by Bernard Roman.