

**IMPACT ASSESSMENT OF THE RAILWAY INFRASTRUCTURE PACKAGE
(Directives 2001/12/EC, 2001/13/EC, 2001/14/EC, 2001/16/EC)**

SUMMARY

Implementation of the Directive 2001/12/EC in Lithuania

Present legal situation in Lithuania. At present the Railway transport operation is regulated by the Railway Transport Code of the Republic of Lithuania, which was prepared basing on the provisions of the Directive 91/440/EEC. The Railway Transport Code defines the principles of Lithuanian railway activities: accessibility of public railways for all railway operators, fair competition with other transport sectors, independence of railway enterprises.

By the Governmental Resolution No 997 of 22 08 1996 the SPJSC "Lithuanian Railways" was designated the infrastructure manager, legally supervising public railways and providing related services to the railway enterprises.

By the Governmental Resolution No 559 of 15 May 2001 on Lithuanian railway sector reform and main directions, the provisions providing legal, economic conditions for commercial operation of the railway transport enterprises were approved. The aim of this document is to ensure the formation of a competitive, corresponding to the EU requirements Lithuanian railway transport sector. In principle the provisions of this Resolution are in line with the requirements of the new infrastructure package.

On 8 May 2001, the Seimas of the Republic of Lithuania adopted the law by which the company "Lithuanian Railways" is no longer obliged to possess the special purpose status, and since 29 June 2001, after the registration of new regulations the "Lithuanian Railways" became a stock company.

For the implementation of the requirements of the Directives 91/440/EEC and 2001/12/EC it is necessary to prepare and to adopt the following legal acts:

1. In regard of regulating of non-discriminate access to the railway infrastructure there is to be prepared Governmental Resolution or Order of the Minister of Transport and Communications by which the functions of the State Railway Inspectorate would be extended.
2. Aiming at ensuring the independence of railway enterprises' operation and meeting the public service obligations, the Railway Transport Code has to be reviewed. There should be provided for the clear separation of State and railway functions, as well as a total reimbursement for performance of public service obligations and liability in case of malfunction either of Contractor or of service provider.

Acting in accordance with the implementation plan of provisions and main directions of Lithuanian railway sector reform which was approved by the Resolution of the Lithuanian Government Meeting of 2 May 2001 (Minutes No 21, item 23) also acting in accordance with the Governmental Resolution No 559 of 15 May 2001, On Lithuanian railway sector reform and main directions in 2002, there shall be established three subsidiaries of the SC "Lithuanian Railways" in accordance with the variety of their activities. They will be as follows: SC

"Passenger transportation services", SC "Cargo haulage services" and SC "Railway infrastructure".

Implementation of the Directive 2001/13/EC in Lithuania

Present legal situation in Lithuania. At present the provisions of the Directive 95/18/EC are partly implemented in the Railway Transport Code, as well as in the Governmental Resolution No 406 of 29 March 1996 (amendments in Decision No 295 of 09 March 1998) and in the Order No 20 of the Minister of Transport and Communications as of 20 01 1998. Acting in accordance with these legal acts, 5 licenses for passenger and freight haulage were given to operators. Nevertheless, the above mentioned legal acts are not sufficient enough for the implementation of the EU requirements. Their main shortcoming is that there are not foreseen: measures necessary for the ensuring of traffic safety, license bearer's responsibility for the damage caused by an accident, the financial standing requirements, etc.

For the implementation of the provisions of the Directives 2001/13/EC and 95/18/EC there should be reviewed the railway enterprises' licensing rules, approved on 20 January 1998 by the Order No 20 of the Minister of Transport and Communications and supplementary provisions should be made as follows:

- good repute and financial standing,
- management and staff professional competence,
- meeting technical requirements for railway exploitation,
- compliance of safety requirements for staff and technical means (rolling stock),
- medical requirements for staff fitness.

On evaluation of the requirements of the Directive 2001/14/EC in this field it would be purposeful to foresee in the legislation that an enterprise (which has already received a license) is not allowed to start its activities unless it is not rated in line with the safety requirements, i. e. until it receives safety certificate.

Implementation of the Directive 2001/14/EC in Lithuania

Present legal situation in Lithuania. At present the main provision of the Directive 95/19/EC requiring the ensuring of right for all operators access to the Lithuanian railway infrastructure has been partly implemented in the Railway Transport Code of the Republic of Lithuania. However, the procedure of allocation of railway infrastructure itself has not been considered in any of the legal acts of the Republic of Lithuania.

By the Order No 8.1 of the Minister of Transport and Communications as of 10 August 1998 there were defined temporary charges for infrastructure use. This applies to all operators irrespective of their subordination.

By the Governmental Resolution No 319 of 10 May 1993, the State Railway Inspectorate was established. It takes care of railway transport safety.

At present there has been developed the Draft Law amendment of Articles 3, 7, 20, 22 of the Railway Transport Code and the Code supplement by Articles 6(1), 6(2). With the support of the Phare project "Legal Harmonisation in Transport. Phase III" there were supplied proposals for the Rolling stock certification procedure, Safety certification - after adoption of which the provisions of the Directive would be fully transposed into the National law.

For the implementation of provisions of the Directive 2001/14/EC in Lithuania it is necessary:

1. to prepare the Lithuanian network statement;
2. to prepare calculation methods of charges for infrastructure use and on that ground to define the system of infrastructure charging;
3. to establish a relevant Regulatory body;
4. to prepare safety certification rules;
5. to appoint an authority responsible for issuing safety certificates and implementation control.

Results expected after the implementation of the provisions of the Council Directive 2001/14/EC:

6. transparent and non-discriminate access to railway infrastructure, which in turn will induce competition of railway enterprises and will stimulate the development as well as the quality of railway services;
7. better efficiency of freight transportation will be achieved after introduction of the unified licensing procedure for railway enterprises, the licences being recognised in the whole Community, thus opening markets of separate states;
8. fair intermodal competition of railway and road transport and decrease of competition distortions between various transport modes;
9. fair and non-discriminate satisfaction of all the needs of railway infrastructure users;
10. optimisation of railway infrastructure usage;
11. decreasing of cases of disorder in railway infrastructure usage, improvement of network exploitation quality;
12. fair competition of railway services;
13. efficient management of railway infrastructure and reduction of infrastructure management expenditure;
14. establishment of an independent regulatory body to supervise that railway enterprises meet the requirements of the regulations.

Implementation of the Directive 2001/16/EC in Lithuania

Present legal situation in Lithuania. For the time being the requirements of this Directive are not yet transposed into the National law because the Directive basically regulates absolutely new field for the Lithuanian railways.

For the implementation of the Directive 2001/16/EC it is necessary:

1. to review the Railway Transport Code;
2. to develop the procedure of ensuring that the railway transport infrastructure and rolling stock investment projects meet the requirements of the TSIs;
3. to appoint a Notifying body responsible for notification of TSIs;
4. to define type approval procedures in regard of correspondence and fitness of component parts for usage;
5. to establish and keep the register of infrastructure and rolling stock (after reviewing the Order No 343 of the Minister of Transport and Communications);
6. to establish a Working Group on the preparation of TSI structural sub-systems projects of the national railway system;
7. to take part in the meetings of joint representatives working with TSI projects.

In regard of compatibility of technical systems there should be singled out three main types of railway compatibility:

- compatibility of railway systems having uniform track gauge (1435), but with different signalling, electric power supply and traction rolling stock types;
- compatibility of systems having different track gauges;
- compatibility in all aspects not related with the railway track gauge.

Since earlier such works were not carried out, their volumes are not clear, thus it is difficult to judge how long such work may last.

It should be noticed that for the implementation of the measures mentioned above substantial financial resources will be necessary (for the implementation of the projects for substitution of signalling system, rehabilitation of traction rolling stock fleet, etc.).

Impact upon SC "Lithuanian Railways". It is expected that the implementation of the new package of the Directives will bring significant results to the Lithuanian railways, first of all in the restructuring of the railway enterprise into separate units, dividing passenger and freight transportation and the management of the infrastructure.

The aim of the railway transport reform, the main policies and directions of which have been approved by the Governmental Resolution No 559 of 15 May 2001, is to reorganise the railway transport market by the following means:

- to transfer link roads to the economy subjects;
- closure, conservation or demolition of the loss-making railway sections;
- to select by tendering operators for passenger transportation on separate routes;
- to detach auxiliary activities, as well as the activities that are not characteristic of railway and establish SC to perform these activities;
- to reorganise essentially the Lithuanian railway management structure.

SC "Lithuanian Railways" is the biggest service rendering enterprise in Lithuania. According to the Statistical Department data of 2000, the railway transport accounts for 40.3% of the total amount of freight and for 2.3% of passengers carried by all modes of transport.

Annual turnover of the company makes about LTL 620 million yearly, and more than 80% of which account for freight transportation. The staff of the company reaches 15 600 people.

Technical condition of the sector at present is not satisfactory. Repairs of 534 km road are delayed, 22% of tracks are worn out, signalling equipment is exploited 25 years in average, maximum exploitation time being 30 years, locomotives are exploited 21 years in average, normative exploitation time of locomotives being 25 - 30 years, freight wagons usually are exploited 19 years, normative wagon exploitation time being 20 - 25 years.

In 2000 the excise of the company for the used fuel reached LTL 41.1 million, half of which transferred to the Road Fund. The company pays LTL 3.2 million road charges yearly. Every year in average about LTL 180 million charges are paid into the State budget.

Opportunities and alternatives of solving the cross-subsiding problem. At present, when there are no separate accounts for passenger transportation, for freight transportation and for infrastructure management, and when these functions are carried out by the SC "Lithuanian Railways", the Company can not refuse cross-subsiding for passenger transportation because it would mean first of all the bankruptcy of the passenger unit (i. e. bankruptcy of a part of the

Company). Cross-subsiding is inevitable when the state and municipalities are not able to cover totally the losses of performing public service obligations (passenger transportation).

Aiming at the reduction and afterwards at the full refusal of the cross-subsiding, the SC "Lithuanian Railways" at present carries out the following policies (6):

- reduces the number of passenger routes;
- reduces the costs of passenger transportation (coupled routes, reduced length of routes, simplified train servicing technology, etc.).

SC "Lithuanian Railways" also is preparing proposals to the Ministry of Transport and Communications and to municipalities concerning envisaged routes of passenger trains through the territories of municipalities, prices of the routes, necessary reimbursement for losses and inadequacy of costs.

Cross-subsiding may be reduced gradually, i. e. when the state and municipality every year increase reimbursement for covering all expenditure related to passenger transportation. At the same time there has to be carried out audit of passenger transport services rendered by agreements or substituted by alternative transport means. As it has been mentioned, at present the amount of LTL 95 million is necessary for yearly compensations of public service obligations. After implementation of the means of the unprofitability reduction the actual amount of such payments should reach about LTL 60 million.

Railway infrastructure finance resources, need for means, alignment of legal basis with the EU requirements. During the implementation of the National Transport System Development Programme and of National Investment Programme, until 1 January 2001, the Company has taken in the name of the State the loans for the total sum of LTL 262.1 million, and the sum of received loans with interest and fine for the same time made LTL 414.3 million.

According to the Directives of the EU the financing sources of the railway infrastructure are as follows:

- maintenance and exploitation financed from the infrastructure usage charges (at present an average need of these means is LTL 150 - 170 million);
- the State aid is rendered for the reduction of the railway debt.

Renovation and development of infrastructure is financed by the investments of the infrastructure owner. Thus, taking into account the fact that the State itself is the infrastructure owner, the investments allocated by it are not even considered as a State aid.

Taking into account the present state of Lithuanian railway infrastructure, as well as the strategy of implementation of the TINA Programme until 2015, the yearly requirement of investment means reaches about LTL 280 - 300 million, and about half of the sum (LTL 150 million) should be allocated from the State budget.

According to the prepared development programme of the SC "Lithuanian Railways" the sources of investment means for 2001 - 2007 should be as follows:

- subsidies received from the EU funds (ISPA);
- loans from international finance institutions;
- Company means (amortisation deductions);
- the fund for financing the railway infrastructure renovation and development programme (State budget);

- the means received by attracting the progressive principles of private and public (state owned and that of municipalities) capital partnership.

The system of infrastructure users' charges, the level of these charges and their impact on the activities of operators. The infrastructure users' charges have to cover the routine maintenance and exploitation costs. Their basic quantities have to be uniform to all the users of the railway infrastructure. At present in the Western Europe the charges for the infrastructure vary from EURO 0.5 for a train kilometre in Holland to EURO 7.5 in the United Kingdom. In Sweden these charges make 0.7; in Austria - 1.5; in France - 2; in Italy - 2.5; in Germany - 3.2; in Switzerland - 3.5 EURO for 1 train kilometre.

For the determination of the size and the mechanism of levying the infrastructure users' charges it is necessary to consider actual railway infrastructure expenditure of maintenance managers, as well as to the principles of levying railway charges and the exceptions of levying, which were defined in the Directive (2001/14/EC), and also the defined possible concessions for the users of the railway infrastructure and possible expenditure related with the compensations for not covered costs of environmental safety, and costs of eliminating consequences caused by incidents.

In the case of the present situation, when the SC "Lithuanian Railways" compensates the biggest part of losses of passenger transportation, finances the investment programme of rehabilitation/renovation of the railway infrastructure and development, and at the same time the Company is compelled to pay back the loans taken for the rehabilitation of the railway infrastructure, certain additional expenditure should be included into the infrastructure charges.

Aiming at environmentally friendly and under certain conditions cost effective railway transport, the State may subsidise a part of general expenditure of railway infrastructure, thus facilitating the activities of operators (such state approach exists in Sweden, Norway and other countries).

However, the Directive 2001/14/EC also provides for a particular case - it is for "congested infrastructure", which means a sector of infrastructure for which demand for infrastructure capacity can not be fully satisfied during certain periods even after co-ordination of the different requests for capacity. In this case for the capacity enhancement there are foreseen increased infrastructure charges (for the implementation of specific development projects).

Impact on new railway operators. The implementing requirements of the new railway infrastructure package each enterprise will have to ensure and to meet three main requirements necessary for license acquisition:

- financial standing;
- good reputation and
- professional competence.

An enterprise seeking a license will have to ensure the possession of traction means. In addition the enterprise willing to transport goods shall have to receive a safety certificate for each route on which transportation operations are planned. Nevertheless, by getting a license for goods and/or goods transportation by the railway transport there are more possibilities for operational activities in the whole territory of the Community.

CONCLUSIONS

1. On generalisation of the results of the above calculations we may conclude that the direct qualitative profit caused by restructuring of Lithuanian railways according to the requirements of the new package of EU Directives (considering that the railway restructuring will be fully finished by 2005) would reach LTL 215 million yearly, while the cost of implementation of the package of new Directives would make yearly about 0.5 million more.
2. It must be emphasised that the present results of a rather general calculation do not by far reflect all main aspects of commercial operation of the railway reorganisation. The efficiency of the railway activities, with respect to other transport modes, comes out with the economy of external transport costs that are paid by public. For calculation of the benefit it is necessary to make a detailed additional analysis of present and forecasted external transport costs in Lithuania. The analysis will enable more precise quantitative evaluation of the benefit of railway activities concerning the public of the whole country.
3. The adoption of the EU Acquis on railways is related with the direct EU support for modernisation of the railway infrastructure with the help of the opportunities given by the financial instrument of ISPA.
4. The consequences of the implementation of the new directives are expected to make an impact on administrative structures, as certain additional functions will be attributed to relevant institutions, as well as the growth of administrative capacity of the state is expected and the essential restructuring of the SC "Lithuanian Railways".
5. There is expected a substantial impact on the State budget as well: bearing in mind that the cross-subsiding principle will be not applied and because of the need to ensure the approximation of the technical level of the railway infrastructure to the EU standards, LTL 210 million will have to be allocated from the budgetary assignment.
6. It should be remembered that the EU legislation regulating railway activities in future will be also improved and developed: already at the end of 2001 it is expected to prepare the draft project of the second package of the Directives which will propose the liberalisation of all the activities of transportation of goods, including cabotage. Therefore, the restructuring of the Lithuanian railways will not be a short-term process, because in future this sector inevitably will encounter the needs of modernisation, commercialisation and restructurisation. The latter statement can be proved by the fact that in the recent White Paper on European transport policy there are defined quite ambitious goals for the period up to the year 2010: significant increase of goods' transportation market share, essential ensuring of the technical compatibility of national networks, reaching the average rate of delivery of goods in Europe even to 80 km per hour (at present it reaches about 20 km/h), integrated passenger transportation services, including full information, booking and ticketing "on line" for all business and holiday trips, etc.