

## Legislative Developments in Rail Transport in 2011

by

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### I. Introduction

Most amendments of the Polish rail transport law in 2011 concerned the organisation of rail transport including: improvements in timetable changing procedures; mechanisms to ensure the observance and early publication of timetables; interoperability of the rail system and; certification of train drivers. Introduced were also some changes meant to restructure the incumbent state rail operator (in Polish: *Polskie Koleje Państwowe*; hereafter PKP). The short, but important, amendment of the Act on Commercialization, Restructuring and Privatization of state enterprise ‘PKP’ seeks to guarantee the independence

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from railway operators of the personnel of the infrastructure manager (in Polish: PKP *Polskie Linie Kolejowe*; hereafter PKP PKL). The rail infrastructure manager's lack of autonomy was one of the Commission's allegations against Poland in the case C-512/10 which is yet to be decided by the Court of Justice of the European Union. The Polish case is analogous to other cases filed by the Commission concerning the incompatibility of Member States' laws with the first EU railway package (C-473/10 *Commission v. Hungary*, C-483/10 *Commission v. Spain*, C-555/10 *Commission v. Austria*, C-556/10 *Commission v. Germany*, C-545/10 *Commission v. Czech Republic*, C-627/10 *Commission v. Slovenia*, C-625/10 *Commission v. France*).

## II. The Act on Rail Transport

The Act on Rail Transport of 28 March 2003<sup>1</sup> (in Polish: *Ustawa o transporcie kolejowym*; hereafter, Rail Transport Act or TK) was subject to two major changes in 2011. They were introduced by the Amendment Act of 19 August 2011 and the Amendment Act of 16 September 2011.

### 1. The Amendment Act of 19 August 2011 to the Act on Rail Transport

The Amendment Act of 19 August 2011<sup>2</sup> was meant to generate practical improvements in the functioning of a number of rail transport related procedures. They included: negotiations concerning access to infrastructure agreements; preparation of transport plans and; publication and observance of timetables. Introduced were also some new means of railway passengers' rights protection. All of those modifications were designed to visibly improve the functioning of passenger rail transport and thus to increase the competitiveness of this mode of transport.

As mentioned in the *Legislative Developments in Rail Transport in 2010* review, a number of new solutions were introduced into the Act on Rail Transport by the Act on Public Collective Transport of 16 December 2010<sup>3</sup>. The latter legislation was enacted at the end of 2010 and entered into force on 1 March 2011 (some provisions will enter into force on 1 January 2017). The Public Collective Transport Act launched a new form of access decisions – a decision on open access to infrastructure. It also set up the notion of

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<sup>1</sup> Journal of Laws 2003 No. 86, item 789.

<sup>2</sup> Journal of Laws 2011 No. 205, item 1209.

<sup>3</sup> Journal of Laws 2011 No. 5, item 13.

a transport plan (a plan of well-balanced development of public collective transport) formulated by the organiser of public transport (the Minister of Infrastructure or a local government unit).

The Amendment Act of 19 August 2011 to the Act on Rail Transport completed the system established by the Public Collective Transport Act by granting, in particular, a number of new control competences to the President of the Office for Railway Transport (in Polish: *Urząd Transportu Kolejowego*; hereafter UTK) including: the right to give opinions on drafts of transport plans and on drafts of agreements on the provision of public services. The UTK President was also enabled to supervise the conclusion of agreements on infrastructure access and to cooperate with other institutions concerning the observance of passengers' rights. According to the new provisions, drafts of transport plans shall be submitted to the UTK President before their issuance by the public transport organisers. The UTK President has 21 days to give his/her opinion on the accordance of the draft with the law. However, such opinions are not binding on the drafter – a negative opinion from the regulator does not block the issuance of the plan by the organiser of public transport.

Similarly, drafts of agreements on the provision of public services in the domain of rail passenger transport are submitted to the UTK President before the organiser initiates an appropriate procedure of public procurement or before it concludes the agreement. The opinion of the regulator on such draft agreements concerns their compatibility with the applicable transport plan. The opinion is not binding and it does not prevent the organiser to conclude the agreement in a given shape. However, this competence enables the UTK President (specialised regulatory body) to control whether the draft realises the postulates accepted in the applicable transport plan and to express his/her view on this matter. After the conclusion of the agreement its certified copy shall be passed on to the UTK President.

The competence to give opinions on the abovementioned issues was designed so as to enhance the UTK President's role as a regulator on the market of passenger railway services. However, in order to respect the independence of local governments, the legislator chose to use a mechanism of non-binding opinions. By doing so, the regulator was allowed to exercise a 'soft' influence on the development of passenger rail transport in Poland in order to promote uniform practice in the entire country and to make it possible for one central institution to collect data on the nation-wide organisation of railway passenger transport.

The Amendment Act of 19 August 2011 changed the provisions of the Act on Rail Transport by specifying in what situations is the UTK President able to refuse to issue a decision on open access to infrastructure. The regulator is authorised to do so if the activity indicated in the motion would influence services

provided on a track on which public services are also provided (on the basis of an agreement) and which would result in either: a) an increase by more than 10 % of the financial compensation resulting from the provision of public service agreement to be paid by the organiser, or b) a disturbance in the regularity of passenger carriages taking into account the density of traffic on a given line as well as passenger needs. The introduction of the second prerequisite for the refusal to issue an open access decision was meant to prevent a situation when the amount of compensation was omitted in the public service agreement and thus the denial justified by its possible increase was not possible.

Certain new provisions were added to Article 29 TK concerning the procedure of negotiating agreements on access to infrastructure. An infrastructure manager or a railway carrier may request the UTK President to fix the final date for the closing of negotiations. The regulator may (even without such request) set such end date as well as order for the negotiations to take place in his/her presence. If the agreement is not concluded within the time limit set by the regulator, the UTK President issues a decision on access to infrastructure that takes the place of the intended agreement. This competence prevents negotiations being prolonged and – contrary to the law – agreements not being concluded. It is worth noting also that the dissolution of an infrastructure access agreement requires now the approval of the regulator. In practice, the UTK President's ability to participate in negotiation and control the dissolution of access agreements is a sign of the regulator's increasing role. It enhances the UTK President's competences to guarantee equal access to infrastructure for all carriers.

Another set of provisions changed by the Amendment Act of 19 August 2011 concerned timetables and passenger rights. These modifications were designed to enhance demand for passenger railway services by eliminating its most disturbing problems: poor credibility of timetables and low standard of railway services. On this basis, the infrastructure manager was obliged to publish the passenger timetable on its website and on the platforms at latest 21 days before its entry into force. The same deadline applies to the owner of railway stations or to the entity managing them – they are obliged to make the timetable available in the station building. All changes to the timetable should be communicated immediately. A limit was set up for the frequency of timetable changes caused by investments, renovations and maintenance operations – they may be introduced at most once a month. All timetable changes and violations of the abovementioned deadlines are to be communicated to the UTK President accompanied by an appropriate explanation.

A new prohibition was inserted into the Rail Transport Act in order to improve the standard of railway services. It concerns the collective interests of rail passengers protected, in particular, by the provisions of the Act of 15

November 1984 on Transport<sup>4</sup> and covers: hygiene, comfort and the possibility to carry out the journey in good conditions.

Specific provisions concerning sanctions were inserted in order to guarantee that timetables and tariffs are published according to the law and in due time and that passengers are guaranteed an appropriate standard of services. In case of an infringement of these rules, the UTK President issues a decision defining the scope of the violation and the deadline for it to cease. New sanctions were added into Article 66 TK. A fine is now imposed, among others, for infringements of deadlines to apply for the assignment of railway lines, of the obligation to maintain the parameters of the railway line and the time of carriages, for non-fulfilment of statutory obligations to communicate timetables and their changes, for assigning railway lines regardless of the lack of free capacity and, for approving an occasional carriage despite non-compliance with statutory requirements. A new form of fines was introduced in Article 66(2aa) TK which can be imposed by the regulator for a delay in fulfilling the obligation to eliminate an infraction resulting from certain decisions (decisions on violations of Regulation (EC) No. 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations; decisions on infringements of rail transport safety provisions and; decisions on non-fulfilment of requirements on the interoperability of the rail system). This fine may also be imposed for a delay in fulfilling obligations stemming from judgments in cases concerning the issuance of decisions replacing infrastructure access agreement or decisions imposing fines. The amount of this fine was set at the equivalent of 5000 Euro for each day of the delay. In calculating the fine, the UTK President shall take into account the time and scope of the infringement, previous activities of the scrutinised entity and its financial capacity.

The majority of the provisions of the Amendment Act of 19 August 2011 entered into force at the end of October 2011. The new Article 30(5c)TK (obliging the infrastructure manager to publish the timetable on its website and on platforms and to inform the owner of railway stations or those managing them of timetable changes) will apply starting from 1 November 2012.

## **2. The Act of 16 September 2011 amending the Act on Rail Transport**

The most awaited amendment of 2011 is important from the business point of view as it implemented a number of EU directives concerning the interoperability and safety of the rail system. Ultimately enacted in the later

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<sup>4</sup> Consolidated text Journal of Laws 2000 No. 50, item 601.

part of 2011, this modification was supposed to have been introduced in 2010. The Amendment Act of 16 September 2011 to the Act on Rail Transport implemented Directive 2008/57/EC of the European Parliament and of the Council of 17 June 2008 on the interoperability of the rail system within the Community<sup>5</sup>, Commission Directive 2009/131/EC of 16 October 2009 amending Annex VII to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community<sup>6</sup> and Directive 2008/110/EC of the European Parliament and of the Council of 16 December 2008 amending Directive 2004/49/EC on safety on the Community's railways<sup>7</sup>.

The Amendment Act of 16 September 2011<sup>8</sup> is quite lengthy and very technical. It creates the framework for using Technical Specifications for Interoperability<sup>9</sup> (hereafter, TSIs) within the authorisation procedures of infrastructure elements according to the requirements set up in Directive 2008/57/EC.

Article 13(1a) TK was added granting the UTK President explicit competences to control the fulfilment of safety requirements mainly concerning train drivers' training and documents as well as safety authorisations of infrastructure managers and railway carriers. Changed was also Article 13(2) and (3) TK specifying the competences of the UTK President in the area of interoperability of the rail system.

Presented here will only be the changes to the Act on Rail Transport brought about by the Amendment Act of 16 September 2011. Since then, Article 23 TK differentiates between the system of placing in service of those elements of railway infrastructure and railway vehicles that conform with TSIs and those that do not. It introduces the rule that vehicles used on the main railway system have to possess a European vehicle number (EVN) which is assigned when the first authorisation for placing it in service is granted. In Poland, the UTK President was obliged to assign EVN to vehicles which are placed in service for the first time on the territory of Poland and to keep a register of vehicles authorised on this territory.

Article 23b (2) TK requires that each vehicle obtains authorisation before it is placed in service. In Poland, the authorisation is awarded by the UTK

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<sup>5</sup> OJ [2007] L 315/44.

<sup>6</sup> OJ [2009] L 273/12.

<sup>7</sup> OJ L [2008] L 345/62.

<sup>8</sup> Journal of Laws 2011, No. 230, item 1372.

<sup>9</sup> Technical specifications for interoperability are the specifications covering the vehicles and the elements of railway infrastructure in order to guarantee that they meet the essential requirements concerning safety, reliability, availability, environmental protection, health, technical compatibility and controls and in order to ensure the interoperability of the rail system within the EU.

President. This provision creates two kinds of procedures followed in order to acquire an authorisation – for TSIs conforming vehicles and for non-TSI conforming vehicles. Conformity relates to all the relevant TSIs which are in force on the day when the authorisation for placing in service is issued. The second type of authorisation under Article 23b (6) TK is valid only on the Polish railway network. On the basis of Article 23c TK, authorisation is not required if a TSI conforming vehicle has been authorised by another EU Member State provided that the TSIs covering the vehicle and the network, on which the vehicle drives, are complete (meaning that the TSIs do not point out any open points<sup>10</sup> or specific cases<sup>11</sup>).

Article 23d(1) TK stipulates that ‘authorisation for a vehicle’ constitutes an authorisation for the given type of vehicle. Authorisation for a vehicle that conforms to a type already authorised by another Member State, is simplified. It is awarded on the basis of a declaration of the vehicle’s conformity to the given type, which is to be submitted by the applicant. Article 23d(6) TK allows the UTK President to decide that such a vehicle must acquire a new authorisation in case of a change of the relevant TSIs or the national provisions on the basis of which the given type of vehicle was authorised. Such a procedure is called a renewal of a type authorisation.

If a vehicle was modified than, as a general rule, it is necessary to obtain a new authorisation to place it in service. Article 23i(1) TK corresponds in this respect with Article 5(2) of Directive 2008/57/EC that requires all subsystems to be compatible with TSIs that are in force at the time of their ‘placing in service, upgrading or renewal’. Derogations from this rule permitted in Article 9 of Directive 2008/57/EC were implemented in Article 25f TK.

Article 25a(1) TK transposes the exemptions from the applicability of interoperability rules allowed by Article 1(3) of Directive 2008/57/EC. Following Annex II to Directive 2008/57/EC, Article 25a (2) and (3) TK transpose the division of the rail system into subsystems. Following provisions cover subsystem verification procedure of subsystems and the authorisation of placing subsystems in service.

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<sup>10</sup> Article 5(6) of Directive 2008/57/EC stipulates: ‘If certain technical aspects corresponding to the essential requirements cannot be explicitly covered in a TSI, they shall be clearly identified in an annex to the TSI as open points’.

<sup>11</sup> According to Article 2(1) of Directive 2008/57/EC ‘specific case’ means any part of the rail system which needs special provisions in the TSIs, either temporary or definitive, because of geographical, topographical or urban environment constraints or those affecting compatibility with the existing system. This may include in particular railway lines and networks isolated from the rest of the Community, the loading gauge, the track gauge or space between the tracks and vehicles strictly intended for local, regional or historical use, as well as vehicles originating from or destined for third countries;

To complete the transposition of Directive 2008/57/EC and Directive 2009/131/EC, the Minister of Infrastructure issued on 2 May 2012 a Regulation on the interoperability of the rail system<sup>12</sup>.

### **III. The Act on Commercialization, Restructuring and Privatization of the State Enterprise “PKP”**

The Amendment Act of 10 July 2011 to the Act on Commercialization, Restructuring and Privatization of the State Enterprise ‘PKP’<sup>13</sup> (hereafter, PKP Act) concerned the independence of the infrastructure manager – PKP PLK.

According to the new provisions of Article 15 of the PKP Act, members of the board of directors and supervisory board of PKP PLK, as well as all those of its employees who manage department responsible for the allocation of tracks and for the collection of charges for infrastructure use, shall not perform any functions or exercise any work in any legal form in PKP, its subsidiaries or in any other rail carrier. This limitation applies for up to 24 months after the termination of the exercise of these functions in PKP PLK. If a person has not ceased to simultaneously occupy those positions in PKP PLK and PKP, its subsidiaries or another carrier, this person’s mandate in the board of directors or in the supervisory board of PKP PLK or his/her employment contract with PKP PLK expires by virtue of this Amendment Act within 6 months of its entry into force.

The said Amendment Act contains also rules on the procedure of appointing members of the board of directors of PKP PLK – they shall be chosen by its supervisory board from among the candidates according to the provisions issued on the basis of the Act on Commercialization and Privatization of 30 August 1996.

By virtue of the Amendment Act of 10 July 2011 to the PKP Act, PKP PLK’s general assembly was obliged to change its statute accordingly and to have the Minister of Transport accept these changes within 6 months of the entry into force of the Amendment Act.

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<sup>12</sup> Journal of Laws 2012, item 492; since 1 January 2012 Journal of Laws is published only in an electronic format. There is no numbering of the Journal but only the items published in it are assigned numbers.

<sup>13</sup> Journal of Laws 2011 No. 168, item 1002.



## **IV. The Act on Rail Fund**

The Amending Act of 28 July 2011 to the Act on Rail Fund and the Act on Rail Transport<sup>14</sup> concerned the collection of funds for investments in rail infrastructure by PKP PLK. On its basis, PKP PLK was also allowed to take on loans and issue bonds to finance certain investments while the Treasury was allowed to guarantee the liabilities resulting from those loans and bonds. The said Amendment Act was meant to speed up infrastructure investments and to increase the absorption of EU funds in this domain.

## **V. The Act of 19 August 2011 on the Transport of Dangerous Goods**

The Act of 19 August 2011 on the transport of dangerous goods<sup>15</sup> transposed Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods<sup>16</sup>. Similarly to this Directive, it consolidated in one legislative act all Polish provisions governing the transport of dangerous goods by road, by rail and by inland waterway. In the area of rail transport, it repealed the Act of 31 March 2004 on the rail transport of dangerous goods<sup>17</sup>. In accordance with the Directive, the new Act relates in many areas to so called RID (Regulations concerning the International Carriage of Dangerous Goods by Rail) covered by Appendix C to the Convention concerning International Carriage by Rail (COTIF) concluded in Vilnius on 3 June 1999. According to Article 13(2(5)) TK, one of the tasks of the UTK President is now to control the transport of dangerous goods by rail.

## **VI. Regulations of the Minister of Infrastructure**

### **1. Set of regulations concerning train driving licences and certificates**

Several new acts were issued in 2011 in the domain of secondary legislation (regulations of the Minister of Infrastructure) concerning railway transport. Most of them related to the certification of train drivers. They completed the transposition of Directive 2007/59/EC of the European Parliament

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<sup>14</sup> Journal of Laws 2011 No. 247, item 1651.

<sup>15</sup> Journal of Laws 2011 No. 227, item 1367.

<sup>16</sup> OJ [2008] L 260/13.

<sup>17</sup> Journal of Laws 2004 No. 97, item 962.

and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community<sup>18</sup>, the implementation of which was originally initiated by the Amendment Act of 25 June 2009 to the Act on Rail Transport. After the Commission was notified of the issue of these acts, it closed its infringement proceeding against Poland concerning the Poland's failure to communicate national measures transposing this directive.

Directive 2007/59/EC established a rail driving system based on two types of documents: a licence, which confirms that the train driver satisfies conditions on medical requirements, basic education and general professional skills ('train driving licence') and complementary certificates authorising the train driver to drive certain rolling stock on a specified infrastructure (called in EU law: complementary certificates or certificates; in Polish law: train driver's certificate).

The Regulation of the Minister of Infrastructure of 18 February 2011 on train driving licences<sup>19</sup> covers key questions related to the process of issuing such licences, particularly the requirements that must be satisfied to obtain them including health conditions, professional knowledge and competence covered during training and examination. Moreover, it sets up the procedure of keeping the register of train driving licences and specifies the conditions to be met by to be listed as an entity entitled to conduct training and exams for those applying for train driving licences or certificates. Notwithstanding the latter provisions, the focus of this act is on train driving licences.

Train drivers' certificates are subject of two new separate acts. The first is the Regulation of the Minister of Infrastructure of 18 February 2011 on train drivers' certificates<sup>20</sup>. Its scope includes professional knowledge and competence relating to whatever rolling stock and infrastructure is covered by a given certificate that must be covered during the relevant training and examination. In this respect, it transposes Annexes V and VI to Directive 2007/59/EC. The Act covers also the procedure of keeping the register of train drivers' certificates and contains an example of a model certificate.

Train driver's certificates are also covered by the Regulation of the Minister of Infrastructure of 15 March 2011 on examinations necessary to obtain a train driver's certificate and maintain its validity<sup>21</sup>, which sets up the physical and psychological requirements that must be fulfilled in order to receive such a certificate.

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<sup>18</sup> OJ [2007] L 315/51.

<sup>19</sup> Journal of Laws 2011 No. 66, item 346.

<sup>20</sup> Journal of Laws 2011 No. 66, item 347.

<sup>21</sup> Journal of Laws 2011 No. 66, item 349.

The scope of the examination required for obtaining and retaining the validity of a licence and a certificate as well as situations when examinations are obligatory are based on Annex II to Directive 2007/59/EC. However, the Polish legislator chose to impose higher standards than the minimum set up by EU law. For instance, section 3.1 of Annex II requires that periodical examinations are taken every three years before the age of 55 and every year thereafter. Both the Regulation of the Minister of Infrastructure of 18 February 2011 on train driving licences as well as the Regulation of the Minister of Infrastructure of 15 March 2011 on the examinations necessary to obtain a train driver's certificate and to maintain its validity introduced the obligation to undergo periodical examinations at least every two years before the age of 55 and yearly thereafter.

Stricter requirements than those of Directive 2007/59/EC were also implemented as regards eyesight for both train driving licences and certificates. According to section 1.2 of Annex II, EU minimum requirements are: 'aided or unaided distance visual acuity: 1,0; minimum of 0,5 for the worse eye, maximum corrective lenses: hypermetropia + 5/myopia -8'. Both Polish acts set the conditions at: unaided 0,8/0,8 for persons applying to obtain documents necessary to exercise the profession of a train driver for the first time and unaided 0,5/0,5 or 0,7/0,3 and aided 1,0/0,5 or 0,8/0,8 (corrective lenses  $\pm 3,0$  D sph and  $\pm 2,0$  D cyl) for persons that already possess such documents and are applying for retaining, extending or reinstatement of their validity.

Furthermore, in accordance with the Regulation of the Minister of Infrastructure of 15 March 2011 on the examinations necessary to obtain a train driver's certificate and to maintain its validity (in conformity with section 3.1 of Annex II to Directive 2007/59/EC), examinations are also to be conducted if they are necessary to determine whether a given train driver fulfils the required health conditions in situations such as: after any occupational accident or any period of absence from work caused by an accident, after a period of sick leave of at least 30 days and following the return of a train driver to work after a break of more than 6 months or in case of doubts whether the given train driver still fulfils the specified health requirements.

The last act related to Directive 2007/59/EC, which applies both to licences and certificates was the Regulation of the Minister of Infrastructure of 15 March 2011 on entry onto the list of entities entitled to carry out examinations concerning medical and psychological requirements necessary to obtain a train driving licence and a train driver's certificate<sup>22</sup>. This act lists all the requirements which must be met by a medical institution in order to be enlisted and, as a consequence, to be entitled to conduct examinations of

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<sup>22</sup> Journal of Laws 2011 No. 66, item 348.

existing train drivers as well as of candidates for train drivers. The Act also contains a model motion for the entry onto the list.

The aforementioned set of acts was issued in order to ensure full conformity of the Polish legal order with Directive 2007/59/EC and the two key acts issued on its basis, namely: Commission Decision 2010/17/EC of 29 October 2009 on the adoption of basic parameters for registers of train driving licences and complementary certificates provided for under Directive 2007/59/EC of the European Parliament and of the Council<sup>23</sup> and Commission Regulation (EU) No 36/2010 of 3 December 2009 on Community models for train driving licences, complementary certificates, certified copies of complementary certificates and application forms for train driving licences, under Directive 2007/59/EC of the European Parliament and the Council<sup>24</sup>.

## 2. Other regulations

Another act issued in 2011 refers to qualifications of rail personnel other than the professions harmonised by Directive 2007/59/EC – the Regulation of the Minister of Infrastructure of 18 February 2011 on employees occupying positions directly connected with the operation and safety of rail traffic and with driving of certain categories of railway vehicles and metro railway vehicles<sup>25</sup>. This act established a complete professional and medical examination system the competition of which is required to obtain documents necessary to work on posts listed in Annex I and II of this act.

A new Regulation of the Minister of Infrastructure of 28 April 2011 on the authorisation for public institutions to recognise qualifications to exercise regulated professions<sup>26</sup> established a competence of the UTK President to recognise foreign qualifications to exercise professions connected with rail transport. This competence relates to qualifications for professions listed in this act which were acquired in an EU or EFTA-EEC Member State or Switzerland.

The Regulation of the Minister of Infrastructure of 11 July 2011 on the way and scope of necessary information given by the infrastructure manager to the organiser of public collective rail transport<sup>27</sup> is connected with transport plans introduced by the 2010 Public Collective Transport Act. The Regulation of 11 July 2011 lists the information necessary to formulate a draft transport plan

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<sup>23</sup> OJ [2010] L 8/17.

<sup>24</sup> OJ [2010] L 13/1.

<sup>25</sup> Journal of Laws 2011 No. 59, item 301.

<sup>26</sup> Journal of Laws 2011 No. 102, item 590.

<sup>27</sup> Journal of Laws 2011 No. 150, item 893.

concerning infrastructure capacity, the standard of access for a given railway line and the extent of planned infrastructure renovations and investments, which is used to set the conditions of the public services provision agreement. The infrastructure manager is obliged to transfer this information to the organiser within 30 working days from receiving the respective motion of the organiser.

The provisions of the Public Collective Transport Act of 16 December 2010 were complemented by the Regulation of the Minister of Infrastructure of 8 June 2011 on the documents and information to be enclosed to the request for the issue of an open access decision and on the amount of charges for issuing this decision<sup>28</sup>.

As mentioned in the legislative review 2009, the Amendment Act of 25 June 2009 to the Act on Rail Transport<sup>29</sup> introduced exemptions from the application of some provisions of Regulation (EC) No 1371/2007. These exemptions expired on 30 June 2011. However, the same Act empowered the Minister of Infrastructure to once again grant exemptions permitted by Regulation No 1371/2007 for specifying passenger connections for a period not longer than until 3 December 2014. On this basis, the Minister of Infrastructure issued the Regulation of 25 May 2011 on the exemption from applying some provisions of Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations<sup>30</sup>.

2011 saw also the issue of the Regulation of the Minister of Infrastructure of 28 April 2011 on the procedure, the method and the conditions for financing or co-financing the purchase or the modernization of railway vehicles for passenger carriages<sup>31</sup>. This act has already been subject to one amendment<sup>32</sup>.

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The review shows that the year 2011 was full of important amendments in the area of rail transport legislation. The most influential one was introduced by the Amendment Act of 16 September 2011 to the Act on Rail Transport that changed the placing in service system of rail infrastructure elements, including railway vehicles. On the basis of its provisions, several new acts were also issued by the Minister of Infrastructure. In the mean time, the government has started legislative procedures for two new acts amending

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<sup>28</sup> Journal of Laws 2011 No. 125, item 708.

<sup>29</sup> Journal of Laws 2011 No. 214, item 1658.

<sup>30</sup> Journal of Laws 2011 No. 117, item 683.

<sup>31</sup> Journal of Laws 2011 No. 104, item 605.

<sup>32</sup> Journal of Laws 2011 No. 237, item 1411.

the Rail Transport Act. One of them concerns the interoperability of the rail system and implements Commission Directive 2011/18/EU of 1 March 2011 amending Annexes II, V and VI to Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community<sup>33</sup>. The second draft relates to the system of train driver qualifications found in Commission Decision 2011/765/EU of 22 November 2011 on criteria for the recognition of training centres involved in the training of train drivers, on criteria for the recognition of examiners of train drivers and on criteria for the organisation of examinations in accordance with Directive 2007/59/EC of the European Parliament and of the Council<sup>34</sup>.

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<sup>33</sup> OJ [2011] L 57/21.

<sup>34</sup> OJ [2011] L 314/36.