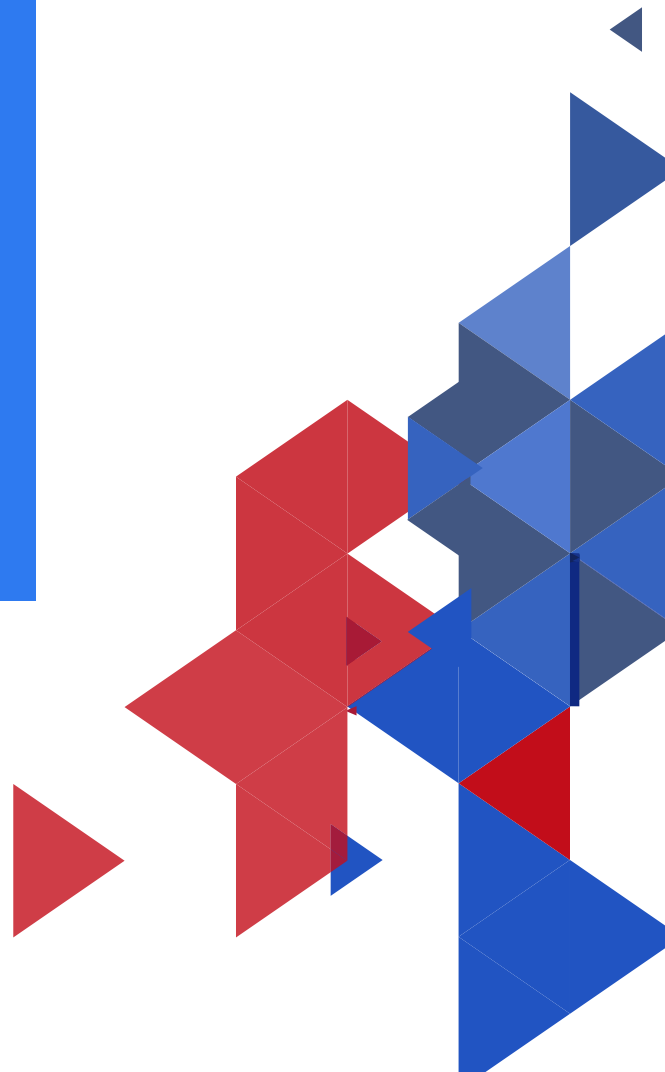


The Railway Transport Act



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THE RAILWAY TRANSPORT ACT

of 28 March 2003¹

Chapter 1

General Provisions

Article 1. The provisions of the Act shall define:

- 1) the rules of using the railway infrastructure, managing the railway infrastructure and its maintenance;
- 1a) guarantees of independence and impartiality of the railway infrastructure manager;
- 2) the rules for rail traffic management and performing rail transport services;
- 3) the technical conditions for operation of railway vehicles;
- 3a) the conditions of assuring the interoperability within the territory of the Republic of Poland;
- 4) the rules and instruments for regulating the railway transport;
- 5) the special terms and conditions of preparing investments concerning railway lines, including the conditions of location and acquisition of real properties for that purpose and competent authorities;
- 6) working time of railway staff who perform interoperable cross-border services;
- 7) the rules governing protection of rail passengers' rights.

¹ Within the scope of its regulation, this Act implements:

1) Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States (OJ L 368, 17.12.1992, p. 38);

2) Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector (OJ L 195, 27.07.2005, p. 15);

3) Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the rail system in the Community (OJ L 315, 03.12.2007, p. 51, OJ L 184 of 25.06.2014, p. 11, OJ L 146 of 03.06.2016, p. 22 and OJ L 97, 08.04.2019, p. 1);

4) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32, OJ L 67, 12.03.2015, p. 32, OJ L 159, 16.06.2016, p. 23, OJ L 352 of 23.12.2016, p. 1 and OJ L 295, 14.11.2017, p. 69);

5) Directive (EU) 2016/797/EU of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138 of 26.05.2016, p. 44 and OJ L 165, 27.05.2020, p. 27);

6) Directive (EU) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (OJ L 138, 26.05.2016, p. 102, OJ L 59 of 07.03.2017, p. 41, OJ L 317, 09.12.2019, p. 115, OJ L 165, 27.05.2020, p. 27 and OJ L 352, 22.10.2020, page 1).

Article 2. (repealed)

Article 3. 1. The provisions of the Act shall not apply to:

- 1) trams and tram lines, with the exception of the provisions of Chapter 2b, which shall apply accordingly to tram lines located outside the road lane;
- 2) rail transport performed during a process of intracompany production, processing, or distribution, in one or more adjacent enterprises, including a mining area – of surface mines, landfills, metallurgical and coke plants, during which involved vehicles do not leave the area of enterprises or leave them solely into a private infrastructure;
- 3) cable transport and funiculars, with the exception of Article 10.3 (2) and 10.3a;
- 4) rail transport performed on railway lines with a track gauge less than 300 mm;
- 5) transport performed using equipment for the carriage of persons or goods moving on a single rail or on airbags or magnetic devices and technical equipment connected with this transport, other than those used in railway and cableway transport.

2. With the exception of Article 5.1 (1a-d and 3-5), Article 5.1b, 2a and 2b and Article 38a–38ba, the provisions of Chapters 2, 2aa-4b, 5a, 5b and 6-12 shall not apply to the unused infrastructure.

3. With the exception of Article 5.1 (1a–d, 1ab and 2–5), Article 5.1b, 2a, 2b and Article 25g, the provisions of Chapters 2, 2aa,2b, 4a, 4b, 5b, 6–6b, 7 and 10 and Article 17a–17ac, Article 18a–18d, Article 23–23b, Article 23ca–23e, Article 23fa and Article 23h–23k shall not apply to the private infrastructure and to the undertakings performing transport services thereon, including railway sidings which are private infrastructure.

4. The provisions of Chapter 6, 7, and 9 shall not apply to the railway infrastructure which is located within the area of railway repair workshops, depots, or locomotive sheds.

5. The provisions of Chapters 2aa, 4a, 5b, 6–6c and Article 5.3, 3a, 3c, 3d, 6, Article 13.1, Article 17a–17ac, Article 18a–18d, Article 23–23b, Article 23ca–23e, Article 23fa, Article 23h–23k and Article 59–64 shall not apply to the narrow-gauge railways.

6. With the exception of Article 38ba, the provisions of Chapters 2b, 5b, 7–8 and 10, Article 17a–17ac, Article 18a–18d shall not apply to railway sidings which are not private infrastructure and railway undertakings performing transport services thereon.

7. The provisions of Chapters 2, 2aa, 4a, 4b, 5a, 5b, 6–9 and 12, Article 23–23b, Article 23ca–23e, Article 23fa and Article 23h–23k shall not apply to the Metro. The provisions of Chapters 2b and 10 shall apply accordingly.

8. The provisions of Chapters 4a ~~and 5a~~ and Article 23–23b, Article 23ca–23e, Article 23fa and Article 23h– 23k shall not apply to railway networks which are functionally separate from the rail system of the European Union and are used only for performing voivodeship or local transport services and to railway undertakings which operate within such railway networks only.

9. The provisions of Chapter 4a and Article 23–23b, Article 23ca–23e, Article 23fa and Article 23h– 23k shall not apply to:

- 1) the railway infrastructure solely used for local, tourist, or historical use;
- 2) railway vehicles solely used for local or tourist purpose and heritage vehicles which do not operate on a railway network.

Article 3a. The 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 (OJ L 315 of 03.12.2007, p. 14), hereinafter “Regulation No 1371/2007/EC”, with the exception of the provisions of Article 4, Article 5, Article 8(1), Article 9, Article 11, Article 12, Article 16, Article 19, Article 20(1), Article 21(2), Article 22, Article 23, Article 24, Article 26, Article 27, Article 28, and Article 29 of that Regulation, shall not be applied to urban, suburban, and regional rail passenger transport services.

Article 4. As used herein the terms shall have the following meaning:

- 1) railway infrastructure – elements defined in Annex 1 to the Act;
- 1a) railroad – rail track or tracks with the elements listed in paragraphs 2–12 of Annex 1 to the Act, unless they are functionally connected with them, regardless of the fact whether they are managed by the same entity;
- 1b) unused infrastructure – railway infrastructure on which the infrastructure manager has not permitted railway traffic;
- 1c) private infrastructure – railway infrastructure used solely to satisfy own needs of its owners or its manager, other than passenger transport;
- 1d) narrow-gauge railway – railway the tracks of which have a width less than 1435mm;
- 1e) train – railway vehicle or a set of railway vehicles which meets the requirements set for a train and to which an infrastructure manager has assigned a train status;
- 1f) manoeuvre – intended movement of a rail vehicle or a set of rail vehicles and related operations performed on a railroad, with the exception of a train's arrival, departure, and passage;
- 2) railway line – railroad set by the infrastructure manager which is adjusted to carry train traffic;

- 2a) railway line of state importance – existing or planned railway line the construction, maintenance, and operation of which is justified by important economic, social, ecological, or defence aspects;
- 2b) railway line of defence importance – railway line of state importance the maintenance and operation of which is justified by state defence reasons, including the needs of the Armed Forces of the Republic of Poland and those of the allied forces during heightened national defence readiness and war, planned to be included in technical protection;
- 2c) railway line of defence importance only – railway line of state importance in the case of which reasons relating to national defence are the only criterion to be included among the lines of state importance, including the needs of the Armed Forces of the Republic of Poland and those of the allied forces at all levels of national defence readiness and war;
- 2d) tram line – tram track or tram tracks along with construction objects, devices and installations, constituting a technical and utility unit, intended for running trams and servicing passengers, pedestrians and cyclists, including tram platforms, pedestrian routes, pavements and bicycle paths;
- 3) adjacent strip of land – lands running along railway lines which are located on both sides to be used for securing railway traffic safety;
- 3a) land strip for a railway line – area of land used for constructing or rebuilding a railway line as defined in a decision on a location of a railway line;
- 4) railway network – railway lines, passenger stations, marshalling yards, freight terminals and all other elements of the railway infrastructure necessary to ensure safe and continuous operation of the European Union rail system;
- 4a) transport plan – plan of sustainable development of public transport developed by a competent authority and announced in compliance with the Act on Public Service Obligation of 16 December 2010 (Journal of Laws 2021, item 1371);
- 5) railway line section – part of a railway line included between junction stations or between a starting point or an endpoint of a railway line and the nearest junction station;
- 6) railway vehicle – vehicle prepared to run on its own wheels on rail tracks which is propelled otherwise than by muscle power or not;
- 6a) (repealed)
- 6b) administrator – entity being an owner of a railway vehicle or having the right to use it as a mean of transport, entered into the European Vehicle Register (EVR);

- 6c) entity in charge of maintenance (ECM²⁾) – entity obliged to guarantee maintenance of a railway vehicle, entered into the European Vehicle Register (EVR);
- 6d) awarding entity – entity that orders design, construction, refurbishment, or upgrade of a subsystem, especially a railway undertaking, an infrastructure manager, or an administrator;
- 6e) (repealed)
- 6f) special rail vehicle – railway vehicle to be used for maintenance, repairs, or construction of the railway infrastructure or for performing rescue operations;
- 6g) national register of infrastructure (RINF) – register of the railway infrastructure, and also railway sidings operated within the territory of the Republic of Poland;
- 6h) historical vehicle – railway vehicle:
- a) entered in the inventory of museum objects referred to in the Act of 21 November 1996 on museums (Journal of Laws 2020, item 902 and Journal of Laws 2021, item 1641), or to the museum inventory or register of monuments, or the regional register of monuments referred to in the Act of 23 July 2003 on the protection and care of monuments (Journal of Laws 2021, item 710 and 954), or
 - b) which is a steam locomotive operated before 14 November 1997, or
 - c) which meets at least one of the following conditions:
 - contains unique design solutions documenting the stages of development of railway technology,
 - is associated with historical events or has been used by famous historical figures;
- 6i) tourist vehicle - a railway vehicle used solely for tourist, demonstration or recreational purposes;
- 7) infrastructure manager – entity responsible for managing the railway infrastructure or its operation, maintenance, renewal or development and, if a new infrastructure is built, an entity that has commenced its construction in the capacity of an investor;
- 8) railway area – area of land defined as record parcels on which are located a railroad, buildings, structures, and equipment used for management, operation, and maintenance of a railway line and transport of passengers and goods;
- 8a) railway station – structure or a set of structures in which there are premises for providing services to passengers using rail transport services, located along a railway line;

²⁾ ECM – Entity in Charge of Maintenance.

- 9) railway undertaking – an undertaking licensed to carry rail transport services, including an undertaking providing only traction service, on the basis of a license and a single safety certificate, or an undertaking authorized to perform rail transport services on the basis of a safety attestation;
- 9a) traction supply service – operation of a railway undertaking consisting in provision a railway vehicle self-propelled with train drivers to perform rail transport services or provision of train drivers' services to run a self-propelled railway vehicle;
- 9b) applicant – railway undertaking, international group of economic interests comprising railway undertakings or another entity interested in obtaining railway capacity, especially a competent authority, a forwarder, a shipper, or a combined transport operator;
- 9c) framework agreement – a legally binding agreement between an applicant and the infrastructure manager on reservation of the infrastructure capacity to be allocated over a period longer than one working timetable period;
- 10) railway sidings – railroad set by an infrastructure manager which is directly or indirectly connected with a railway line, used to perform loading, maintenance, or parking operations of railway vehicles or movement and entering of railway vehicles into operation on a railway network;
- 10a) railway siding user – an entity which manages a railway siding;
- 11) railway capacity – operational and movement capability of a railroad to perform train runs or manoeuvre thereon over a specified period of time;
- 12) train route – railway capacity secured for a train run;
- 13) railway vehicle type – all technical solutions used in the vehicle design, defined by the basic construction features of the vehicle;
- 13a) area of use of a vehicle – railway network or railway networks within the territory of a European Union Member State or European Union Member States, where the vehicle is to be used;
- 14) structure type – structure to be used to perform railway traffic with certain recurring technical and operational parameters;
- 14a) device type – device or a system to be used to perform railway traffic with certain recurring technical and operational parameters;
- 15) certificate permitting to operate a type – document authorising operation of a railway vehicle type, a structure type, or a device type, respectively;

- 15a) type approval certificate – document issued by an organisational unit authorised to perform technical examination necessary to obtain a certificate permitting to operate a type confirming performance of such examination with a positive result;
- 15b) type conformity certificate – document issued by an organisational unit authorised to perform technical examination necessary to confirm type conformity, confirming that a specific device, structure, or a railway vehicle is conformed with a type which has previously obtained a certificate permitting to operate a type;
- 16) (repealed)
- 16a) (repealed)
- 17) certificate of a railway vehicle worthiness – document confirming that a railway vehicle is in a running condition;
- 18) safety attestation – document confirming capability of performing railway traffic operations and rail transport services in a safe manner issued to entities exempt from an obligation of obtaining a single safety certificate and safety authorisation;
- 18a) single safety certificate – document confirming that a railway undertaking has established a safety management system and its ability to safely conduct business in the intended area of operation;
- 18b) safety authorisation – document confirming that an infrastructure manager has established a safety management system and confirming capability of its compliance with requirements necessary for safe design, operation, and maintenance of the railway infrastructure, including railway traffic control and signalling system;
- 19) agreement on public service provision – agreement on the provision of public services regarding public transport within the meaning of the Act on Public Transport of 16 December 2010;
- 19a) Competent Authority – Competent Authority within the meaning of the Act on Public Service Obligation of 16 December 2010 to the extent relating to rail passenger transport services;
- 19b) operator of public railway transport – operator of public transport within the meaning of the Act of 16 December 2010 on Public Transport to the extent relating to rail passenger transport services;
- 19c) public utility transport operations – public utility transport operations within the meaning of the Act of 16 December 2010 on Public Transport;
- 19d) (repealed)
- 20) (repealed)

- 20a) voivodeship transport services – voivodeship passenger transport services within the meaning of the Act of 16 December 2010 on Public Transport;
- 20b) local transport services – passenger transport services in counties, passenger transport services in counties and communes, passenger transport services in communes, or metropolitan passenger transport services within the meaning of the Act of 16 December 2010 on Public Transport;
- 21) (repealed)
- 22) service transport – transport performed for the needs of an infrastructure manager for the purposes of its construction, repair, maintenance, supervision, or breakdown repairs;
- 22a) occasional passenger transport – one-off carriage under a rail transport service which is to meet transport needs that are not provided on a given line under a public service contract or under a decision on granting open access or a limited access;
- 23) train timetable – plan pursuant to which trains are to run on a given railway network or its part during an applicable period;
- 24) (repealed)
- 25) (repealed)
- 26) Union rail system – elements listed in Annex Ia to the Act;
- 26a) (repealed)
- 27) (repealed)
- 28) interoperability – the ability of the Union rail system to ensure safe and uninterrupted movement of trains which meet the required level of efficiency;
- 29) interoperability constituent – elementary components, groups of components, subassemblies or complete assemblies of equipment incorporated or intended to be incorporated into a subsystem, upon which the interoperability depends either directly or indirectly; software is an interoperability component, too;
- 30a) specific case – part of the Union rail system for which separate regulations have been established, temporarily or permanently, in technical specifications of interoperability due to the existing geographic, topographic, or urban limitations or due to a necessity of ensuring compatibility with the existing Union rail system;
- 30b) open points – technical conditions indicated in technical specifications of interoperability relating to the essential requirements of the rail system to which national regulations apply;
- 30c) advanced stage of implementation – stage of planning or implementation of a project to renew, upgrade or build a subsystem, at which a change in technical specifications could jeopardize the planned profitability of the project;

- 30) subsystem – part of the rail system of the European Union which is structural or functional for which separate essential requirements of the rail system have been established;
- 31) essential requirements of the rail system – requirements laid down in the Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union, which concern the interoperability constituents, subsystems and their associations which must be fulfilled in order to ensure interoperability;
- 32) technical specifications for interoperability – specifications by which subsystems or their parts are covered in order to meet the essential requirements of the rail system announced by the European Commission in the Official Journal of the European Union;
- 33a) European specification – a specification which belongs to one of the following categories:
 - a) technical specifications in the field of information and communication technologies (ICT) as defined in accordance with Article 13 and Article 14,
 - b) European standard within the meaning of Art. 2.1.b of the Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12–33),
 - c) European technical approval;
- 33b) EC verification procedure of a subsystem – activities undertaken by the manufacturer or his authorized representative established within the territory of a Member State of the European Union, an awarding authority, an upgrade contractor, an importer, an investor, an administrator, a railway siding user, an infrastructure manager, or a railway undertaking aimed at demonstrating that the subsystem is compliant with the essential requirements of the rail system, meets the requirements included in relevant legal provisions of the European Union and national provisions and that it may be permitted for operation in the Union rail system ;
- 33) certificate of the EC verification of a subsystem – document issued by a notified body confirming that a subsystem is compliant with the essential requirements concerning the rail system;
- 34a) (repealed)

- 34b) certificate of the EC conformity or suitability for use of an interoperability constituent – document issued by a notified body confirming that an interoperability constituent is compliant with the essential requirements of the rail system or confirming that an interoperability constituent is suitable for use;
- 34ba) subsystem verification certificate – document issued by a designated body confirming that the subsystem complies with the relevant national technical specifications and standardization documents, the application of which enables meeting the essential requirements of the rail system;
- 34c) (repealed)
- 34d) (repealed)
- 34e) (repealed)
- 34f) notified body – entity which is responsible for assessing the conformity or suitability for use of the interoperability constituents or for appraising the EC procedure for verification of the subsystems;
- 34g) designated body – entity which is designated to assess the compliance of subsystems for compliance with the relevant national technical specifications and standardization documents, the application of which enables meeting the essential requirements of the rail system;
- 35) EC declaration of verification of a subsystem – statement of the manufacturer or his authorised representative established within the territory of a Member State of the European Union, an awarding authority, an upgrade contractor, an importer, an investor, an administrator, a railway siding user, an infrastructure manager, or a railway undertaking confirming upon their sole liability that a subsystem which has been covered by a procedure of the EC verification of a subsystem, is compliant with the essential requirements of the rail system and meets the requirements included in the relevant legal provisions of the European Union and national provisions;
- 35a) (repealed)
- 35b) EC declaration of conformity or suitability for use of an interoperability constituent – statement of the manufacturer or his authorised representative established within the territory of a Member State of the European Union, an awarding authority, an upgrade contractor, an importer, an investor, an administrator, a railway siding user, an infrastructure manager, or a railway undertaking confirming upon their sole liability that an interoperability constituent is compliant with the essential requirements of the rail system and meets the requirements included in the relevant legal provisions of the

- European Union and national provisions or confirming that an interoperability constituent is suitable for use;
- 35c) declaration of type conformity – statement of the manufacturer or his authorised representative established within the territory of a Member State of the European Union, an awarding authority, an upgrade contractor, an importer, an investor, an administrator, an infrastructure manager, a railway siding user, or a railway undertaking confirming upon their sole liability that a given railway vehicle, a device, or a structure are compliant with a type of the vehicle, the device, or the structure, respectively, that has already obtained an authorization for placing in service or authorization for placing on the market or a certificate permitting to operate a type;
- 36) authorization for placing in service – all activities which result in commissioning of a subsystem;
- 36a) permission to operate a type – actual and legal actions necessary for permission for use of a vehicle type, a structure type, or a device type ending with issuance of a certificate permitting to operate a type;
- 36b) (repealed)
- 36c) cargo terminal – structure or a set of structures comprising a railroad, providing for uploading or unloading of wagons or integrating various types of transport in terms of transport of goods;
- 37) public funds – public funds within the meaning of the provisions on public finance;
- 37a) Member State of the European Union – Member State of the European Union and a Member State of the European Free Trade Agreement (EFTA) – a party to the agreement on the European Economic Area and the Swiss Confederation;
- 38) Agency – the European Union Agency for Railways established by Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1–43);
- 38a) One-Stop Shop – an information and communication system referred to in Article 12.1 of the Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004;
- 39) safety management system – organisation, arrangements and procedures established by an infrastructure manager or a railway undertaking to ensure the safe management of its operations;

- 40) common safety indicators (CSI) – statistical data relating to rail accidents and incidents, consequences of accidents, technical safety of the railway infrastructure and safety management;
- 41) common safety methods (CSM) – methods describing a manner of assessing the safety level, compliance with the safety requirements, and compliance with other requirements concerning safety;
- 42) common safety targets (CST) – minimum safety levels that must be achieved by the Union rail system as a whole or in certain cases by different parts the rail system of the European Union;
- 43) upgrade – major modification works performed in a subsystem or its part, improving the overall performance of a subsystem and resulting in a change to the technical documentation attached to the EC declaration of verification, if such technical documentation exists;
- 44) renewal – major replacement work in a subsystem or part thereof which does not change overall performance of the subsystem;
- 44a) development of railway infrastructure – railway network planning, financial and investment planning, as well as construction or modernization of railway infrastructure;
- 45) accident – unintended sudden event or a sequence of such events involving a railway vehicle causing adverse consequences for human health, property, or the environment; accidents shall in particular include:
 - a) collisions,
 - b) derailments,
 - c) events at level crossings,
 - d) events involving persons caused by a moving railway vehicle,
 - e) railway vehicle fire;
- 46) serious accident – any accident caused by collision, derailment, or another event which has an obvious impact on railway safety regulations or safety management:
 - a) involving at least one fatality or at least 5 heavily injured persons, or
 - b) causing substantial damage to a railway vehicle, the railway infrastructure, or the environment which may be immediately estimated by a board investigating the accident to amount at least to EUR 2m;
- 47) incident – any event other than an accident or a serious accident related to railway traffic and having an impact on its safety;

- 48) proceeding – process aimed at preventing accidents and incidents that includes collecting and analysing information, drawing conclusions relating to causes of accidents and incidents and, in justified cases, developing recommendations concerning safety;
- 49) interoperable cross-border services – services the provision of which involves crossing borders of the Republic of Poland and requires a permission /authorization to operate involving at least two European Union Member States;
- 50) business secret – confidential business information within the meaning of the Act of 16 April 1993 on Combating Unfair Competition (Journal of Laws 2020, item 1913 and Journal of Laws 2021, item 1655);
- 51) service facility – a facility together with land on which it is situated as well as installations and equipment, intended in whole or in part for the provision of one or more services referred to in paragraphs 2 and 3 of Annex II to the Act;
- 52) service facility operator– entity performing operations consisting in management of service facility or providing to railway undertakings at least one of the services referred to in paragraphs 2 and 3 of Annex II to the Act;
- 53) passenger station – service facility consisting of a railway station and infrastructure enabling passengers to access the platform on foot or by vehicle, from a public road or railway station;
- 54) passenger station operator – entity managing a passenger station;
- 55) marshalling yard – railway station equipped with facilities for marshalling the wagons, which includes facilities for train formation and shunting operations;
- 56) storage sidings – tracks designed specifically for the temporary stabling of railway vehicles or trainsets between two periods of operation;
- 57) vertically integrated undertaking:
 - a) an entity or group of entities in which an infrastructure manager:
 - is controlled by an undertaking which at the same time controls one or several railway undertakings that operate rail services on the infrastructure manager's network;
 - is controlled by one or several railway undertakings that operate rail services on the infrastructure manager's network;
 - controls one or several railway undertakings that operate rail services on the infrastructure manager's networkon the basis of rights, contracts or any other legal or factual means referred to in Article 3.2 of the Council Regulation (EC) No 139/2004 of 20 January 2004 on the

- control of concentrations between undertakings (the EC Merger Regulation) (OJ L 24, 29.1.2004, p. 1–22), hereinafter referred to as "Regulation (EC) No 139/2004",
- b) an entity consisting of distinct divisions, including an infrastructure manager and one or several divisions providing transport services that do not have a distinct legal personality;
- 58) high speed passenger services – passenger rail services operated without intermediate stops between two places separated at least by a distance of more than 200 km on specially-built high-speed lines equipped for speeds generally equal or greater than 250 km/h and running on average at those speeds;
- 59) essential functions – infrastructure managers’ decision-making concerning train path allocation and infrastructure charging, including determination and collection of charges, in accordance with the principles set in Chapter 6;
- 60) type of operation – passenger transport, including high-speed rail transport, freight transport, including transport of dangerous goods, or only manoeuvres;
- 61) scope of operation – scope defined in terms of the number of passengers or the volume of goods and the estimated size of a railway carrier expressed in the number of people employed in the railway sector;
- 62) area of operation – railway network or railway networks within the territory of a European Union Member State or European Union Member States, where a railway carrier intends to operate.

Chapter 2

Railway Infrastructure

Article 5. 1. The tasks of the infrastructure manager, hereinafter referred to as “manager”, include:

- 1) managing the railway infrastructure consisting in:
 - a) assigning a railway track a status of a railway line by defining:
 - elements of the railway infrastructure comprising it,
 - its starting and ending points,
 - constituent railway stations,
 - sections into which it is divided,

- its number,
 - b) assigning a railroad status of a railway siding by defining its starting and ending points,
 - c) cancelling the status of a railway line and a railway siding,
 - d) defining elements of the railway infrastructure which are private or closed,
 - e) exercising essential functions,
 - f) (repealed)
- 1a) operation of the railway infrastructure:
- a) providing access to rail infrastructure and related services and collecting charges,
 - b) rail traffic management;
- 2) maintenance of the railway infrastructure by carrying out works aimed at maintaining the condition and ability of the existing railway infrastructure which allows for a safe conduct of railway traffic, including supervision over the functioning of:
- a) railway traffic control devices,
 - b) trackside devices for controlling safe movement of trains;
- 3) management of the railway infrastructure property;
- 4) participation in the development of railway infrastructure;
- 5) renewal of the railway infrastructure..

1a. The provisions of paragraph 1.1.a–c and e and point 1a shall not apply to the manager that does not manage rail tracks.

1b. The tasks referred to in paragraph 1.1 points 1-2, in particular with regard to railway traffic management and railway infrastructure maintenance, shall be performed by the manager in a transparent manner, ensuring non-discriminatory treatment of applicants and railway undertakings and preventing a conflict of interest.

2. (repealed)

2a. The manager shall draw up a network statutes indicating the railway lines, sidings and other routes managed by it, as well as which are closed or private infrastructures. The manager shall also include in the network statutes information about items of railway infrastructure that form part of the railway line which are managed by another manager.

2b. Lack of the railway network's statutes as referred to in paragraph 2a shall be equivalent to assignment of the closed infrastructure status to the managed infrastructure.

2c. The entities referred to in paragraph 1a shall provide the manager referred to in paragraph 2a with the information on the railway infrastructure elements referred to in

paragraphs 2–12 of Annex I to the Act which are functionally connected with the railway lines of the manager referred to in paragraph 2a.

3. The manager who provides access to the railway infrastructure, with the exception of the manager who provides only the railway infrastructure that forms part of a service facility, shall not be authorised to perform rail transport services except for his own technological needs.

3a. A railway undertaking shall not be authorised to manage railway infrastructure except for the railway infrastructure which forms part of the service facility of which it is the operator and private infrastructure.

3b. The provisions of paragraphs 3 and 3a, Chapter 2aa and Article 37(3)–(8) shall not apply to an undertaking that combines the functions of the manager and railway undertaking by managing the railway infrastructure and providing only urban, suburban, or regional rail transport services on railway networks or railway lines:

- 1) dedicated, local or regional services, or
- 2) intended exclusively for the operation of urban or suburban rail services.

3c. The provisions of Article 37(3)–(8) shall apply to the undertaking that is referred to in paragraph 3b, who provides the railway infrastructure to other railway undertakings.

3d. If the undertaking that is referred to in paragraph 3b or 3c is under direct or indirect control of an entity that performs or integrates rail transport services other than urban, suburban, or regional services, the following shall apply:

- 1) public funds may not be transferred between an undertaking and the entity providing or integrating rail transport services other than urban, suburban, or regional services;
- 2) the undertaking shall keep accounts in a way that makes it possible to monitor the prohibition referred to in point 1;
- 3) the undertaking shall prepare a balance sheet and a profit and loss account separately from any undertaking performing or integrating rail transport services other than urban, suburban, or regional services;
- 4) the undertaking who pursuant to the accounting regulations is not obliged to publish its own financial statements, shall publish such statements on their web sites.

3e. The minister responsible for transport shall publish, by way of a notice, the list of undertakings referred to in paragraphs 3b and 3c.

4. (repealed)

5. (repealed)

6. The Council of Ministers shall define, by means of a regulation, the principles of cooperation of the Minister of National Defence with managers and railway undertakings in the scope of adjustment of the railway infrastructure to the requirements of state defence, taking into consideration the requirements related to state defence.

Article 5a. To the performance of the manager's tasks referred to in Article 5.1, with respect to the railway infrastructure of defence importance, the provision of the Act on Public and Private Partnership of 19 December 2008 (Journal of Laws 2020, item 711 and 2275 and Journal of Laws 2021, item 868) shall not apply.

Article 5b. Upon request of the organiser of public railway transport, the manager shall prepare and present the information:

- 1) required for preparing a draft of the transport plan;
- 2) concerning the infrastructure capacity on a given line and the quality of an access standard on a given railway line and the scope of planned refurbishment and investments into the railway infrastructure which are used to determine the terms and conditions of an agreement for the provision of public services.

Article 5c. By way of a regulation, the minister competent for transport shall determine the scope and manner in which the infrastructure manager shall provide the competent authority with the information referred to in Article 5b, having regard to a need of providing data necessary for the development of a transport plan and for determination of the terms and conditions of a public service contract, and also the necessity of performing relevant analysis.

Article 6. 1. Railway lines are divided into:

- 1) lines of state importance;
- 2) other lines.

2. By way of a regulation, the Council of Ministers shall define a list of the railway lines which in view of economic, social, defence or ecological aspects are of state importance, subject to paragraph 3.

2a. It shall not be permitted to cancel a railway line status in the case of a railway line of state importance.

3. In agreement with the Minister of National Defence, the minister competent for transport shall determine, by way of a regulation, a list of the railway lines of defence importance only.

4. The regulation referred to in paragraph 3 shall not be announced.

Article 7. The minister competent for transport may, by way of a decision, impose on managers an obligation of connecting railroads, if it is so required under defence or other importance state aspects, provided that necessary financial means are ensured for construction, operation, and maintenance of such connection.

Article 8. Land taken for the railway infrastructure shall be exempt from fees due under perpetual usufruct.

Article 9. (repealed)

Chapter 2a (repealed)

Chapter 2aa

Guarantees of independence and impartiality of infrastructure manager

Article 9ma. 1. The manager may delegate the performance of the manager's tasks to a different entity, provided that no conflicts of interest arise and that the confidentiality of commercially sensitive information is guaranteed, provided that the latter:

- 1) is not a railway undertaking,
- 2) does not control a railway undertaking, or
- 3) is not controlled by a railway undertaking.

2. In the case referred to in paragraph 1, the manager may commission a railway undertaking or another entity that controls or is under control of this undertaking to perform maintenance works, renewal and participate in development of the railway infrastructure.

3. Within a vertically integrated undertaking, the manager may commission performance of essential functions to another entity which will carry out essential functions only.

4. The manager supervises the performance of tasks or works by the entities to which he commissioned them, and is ultimately responsible for their performance, in particular, he provides guidelines for their implementation and controls the performance of commissioned tasks or works in terms of compliance with the provisions of this Act.

5. The limitations specified in paragraph 1 are not applied when the manager delegates performance of tasks to an operator providing electricity for traction purposes, if this operator does not perform essential functions and its activity is not co-financed by the state budget or the Railway Fund.

6. The entity commissioned by the manager to carry out essential functions shall perform them in a transparent manner, ensuring non-discriminatory treatment of applicants and railway undertakings and preventing a conflict of interest, in accordance with the provisions of this Chapter.

Article 9 mb. 1. The manager is obliged to have a legal personality distinct from the railway undertakings, and in the case of a vertically integrated undertaking, also from other entities which form the undertaking.

2. If the manager and the railway undertaking are independent of each other, but both entities are directly controlled by the State Treasury, the provisions of this Act concerning a vertically integrated undertaking shall not apply to them.

3. An entity that is part of a vertically integrated undertaking shall not have a decisive influence, within the meaning of Regulation (EC) No 139/2004, on performance of the essential functions by the manager.

Article 9mc. 1. The same persons shall not:

1) at the same time be:

- a) a member of the management board,
- b) a member of the supervisory board

of the manager and the railway undertaking;

2) occupy managerial positions at the manager and the railway undertaking that are part of the same vertically integrated undertaking.

2. A member of the manager's management board may not be a person who is also a member of the supervisory board of an entity that is part of a vertically integrated undertaking and exercises control over the manager and the railway undertaking that are part of that undertaking.

3. Members of the railway undertaking's management board may not hold managerial positions related to performance of the essential functions.

Article 9md. 1. Members of the management board of the manager which is part of a vertically integrated undertaking and persons holding managerial positions relevant to performance of the essential functions at the manager's that is part of a vertically integrated undertaking shall not receive remuneration or bonuses related to the financial result from a railway undertaking that is part of the same vertically integrated undertaking.

2. Persons which hold managerial positions relevant to performance of rail transport services at a railway undertaking may not receive remuneration or bonuses from an entity being part of the same vertically integrated undertaking related to the financial result of the manager which is a part of the same vertically integrated undertaking.

Article 9me. 1. Where the manager and the entities within the vertically integrated undertaking use a common IT system, only persons authorized by the manager shall have access to the information related to the essential functions which is commercially sensitive information secrets or legally protected information.

2. The information referred to in paragraph 1, may not be transferred to other entities that are part of the vertically integrated undertaking.

Article 9mf. The railway undertaking or another entity that is part of a vertically integrated undertaking shall not have a decisive influence, within the meaning of Regulation (EC) No 139/2004, on the appointment and dismissal of members of the management board or members of the supervisory board of the manager which is a part of the same vertically integrated undertaking, and on employment and dismissal of persons holding managerial positions relevant to the essential functions.

Article 9mg. 1. Members of the management board and the supervisory board of the manager and persons holding managerial positions relevant to the essential functions shall not perform functions in the bodies of a railway undertaking or entity controlling this undertaking, be employed by these entities, or provide work or services for these entities on the basis of a different legal relationship.

2. The prohibition referred to in paragraph 1 also applies for the period of 6 months from the date:

- 1) termination of performance of the function of a member of the manager's management board or supervisory board;
- 2) termination of employment of the manager's employee in the positions covered by the prohibition;
- 3) ending of work or services for the manager.

Article 9mh. The manager immediately provides all affected railway undertakings with information on the disturbance in the operation of trains, its effects and actions taken.

Article 9mi. The manager may use income from performance of tasks referred to in Article 5.1 and public funds granted to them for the implementation of these tasks, only to finance its own activities, including:

- 1) loans service;
- 2) payment of dividends to the shareholders of the manager, except for the entity being a part of the vertically integrated undertaking which exercises control over the manager and the railway undertaking.

Art. 9mj. 1. The manager may not grant loans to the railway undertaking.

2. The railway undertaking may not grant loans to the manager.
3. The entity that is part of a vertically integrated undertaking may not grant loans to the manager who is part of the same vertically integrated undertaking.
4. An entity that is part of a vertically integrated undertaking may lend, pay and service loans to an entity other than the manager to an entity that is part of the same vertically integrated undertaking only based on market rates and in a manner reflecting the individual risk profile of that entity.

Article 9mk. An entity which is part of a vertically integrated undertaking may provide services to the manager within the same vertically integrated undertaking only on the basis of a contract and for a remuneration determined on market terms or at prices that include the cost of the service plus a reasonable margin.

Article 9ml. 1. A manager which is part of a vertically integrated undertaking shall keep separate accounts from other entities that are part of the same undertaking in a manner that enables the monitoring of financial flows between these entities.

2. In a vertically integrated undertaking, the manager's debt is separated within the framework of the accounting and serviced separately from other entities which are part of the same vertically integrated undertaking.

3. Unbundling of the manager's debt shall not preclude the final repayment of that debt through another entity within the same vertically integrated undertaking, including the entity exercising control over the manager and the railway undertaking.

4. The manager which is part of the vertically integrated undertaking keeps accounting books and documentation regarding its economic and financial situation, commercial cooperation and financial ties between it and other entities within the same vertically integrated

undertaking, in order to ensure transparency of financial relations between the manager and these entities.

Article 9mm. 1. The manager, subject to the principle of non-discriminatory treatment, may conclude cooperation agreements with railway undertakings in order to provide the railway undertakings' customers with benefits, including costs reduction or improvement of the conditions for the provision of services on a part of the manager's rail network covered by the contract.

2. The manager shall submit the draft agreement referred to in paragraph 1, for opinion of the President of the Office of Rail Transport, hereinafter referred to as the "President of UTK". The President of UTK gives an opinion on the draft contract in terms of compliance with the provisions of this Act within 21 days from the date of its submission.

3. No opinion within the time limit referred to in paragraph 2, is a positive opinion on the draft contract referred to in paragraph 1.

4. The manager shall immediately inform the President of UTK about the conclusion of the agreement referred to in paragraph 1.

5. If the performance of the contract referred to in paragraph 1 may violate the principle of non-discriminatory treatment of railway carriers, the President of UTK recommends to the parties to the agreement to terminate it.

Chapter 2b

Detailed Rules and Conditions of Preparing Investments Concerning Railway Lines

Article 9n. 1. The provisions of this Chapter define special terms and conditions of preparing investments concerning railway lines, including the conditions of location and acquisition of real properties for that purpose and competent authorities.

2. If construction works carried out under an investment project concerning a railway line are located in closed areas that are referred to in Article 2.9 of the Act of 17 May 1989 on Land Surveying and Cartography (Journal of Laws 2020, item 2052 and Journal of Laws 2021, item 922 and 1641) and do not go beyond such areas, the investor may file an application for a decision on determination of the location of a railway line pursuant to this Chapter or for a decision on the location of a public purpose investment pursuant to the Act of 27 March 2003 on Spatial Planning and Land Development (Journal of Laws 2021, item 741, 784 and 922).

Article 9o. 1. A decision on determination of the location of a railway line shall be issued by a voivode upon an application of PKP Polskie Linie Kolejowe Spółka Akcyjna, hereinafter “PLK S.A.”, or a relevant local government unit.

2. Proceedings into case concerning issuance of a decision on determination of the location of a railway line shall be governed by the provision of the Act of 14 June 1960 on the Code of Administrative Procedure (Journal of Laws 2021, item 735 and 1491), hereinafter the “Code of Administrative Procedure”, subject to the provisions hereof.

2a. If the application referred to in paragraph 1 does not satisfy the requirements determined in the provisions of the law, a voivode shall call upon the requesting party to remove such deficiencies within 14 days, instructing that failure to remove such deficiencies shall result in the application not being considered.

3. The application for issuance of a decision for determination of the location of a railway line shall in particular include:

- 1) a map in a 1:5000 scale at least, developed using the content of a base map, and if it is unavailable – using another topographic map in the same scale, while in the case of the closed areas using the content of a map which is referred to in Article 4.2 of the Act of 17 May 1989 on Land Surveying and Cartography:
 - a) showing a proposed route of the railway line, with marking of the area as necessary for the planned structures,
 - b) specifying the designation of the area covered by the investment, including the course of the demarcation line covering the real estates referred to in Article 9q.1 point 7 and Article 9s.6, as well as designation of real estates in relation to which the decision on determining the location of the railway line will have the effect of restricting the use of the real estate referred to in Article 9q.1 point 6 and Article 9s.9, as well as the areas referred to in Article 9y.1;
- 2) determination of changes in the hitherto purpose, development, and utilities, provided that the utilities shall be understood as the erected facilities referred to in Article 143.2 of the Act of 21 August 1997 on Real Property Management (Journal of Laws 2020, item 1990 and Journal of Laws 2021, item 11, 234, 815, 1551 and 1561);
- 3) maps with designs of the division of a real property in the case of a necessity to make a division of the real property prepared in accordance with separate regulations;
- 3a) list of real estates or their parts which are planned to be taken by the State Treasury or local government units or constitute their property, in relation to which the decision to determine the location of a railway line is to have the effect referred to in Article 9s paragraph 3b and

- 3e, containing markings of plots of land according to the real property cadastre or maps with the designed division of the real property and surface areas of such plots;
- 3b) list of real estates, containing the marking of plots according to the real estate cadastre or maps with real estate division projects, in relation to which the decision on determining the location of the railway line is to have the effect of limiting the way of using the real estate, referred to in Article 9s.9;
- 4) opinions:
- a) the minister competent for health – with respect to investments located in areas that have been given a health resort status or a status of a health resort protection zone in accordance with the provisions of the Act of 28 July 2005 on Spa Treatment, Health Resorts and Protection Zones of Health Resorts and Health Resort Communes (Journal of Laws 2021, item 1301),
 - aa) the minister competent for national defence – in relation to investments related to railway lines of military importance and railway lines of military importance only, and investments located in whole or in part in closed areas necessary for the defence of the state, established pursuant to Article 4.2a of the Act of 17 May 1989 – Geodetic and Cartographic Law by the Minister of National Defence, or in their protection zones, referred to in Article. 4.3 of the Act on Spatial Planning and Land Development of 27 March 2003,
 - b) a director of a competent maritime office – with respect to sea ports and marinas together with areas of a technical strip and a protection strip,
 - c) a competent office of mining supervision – with respect to mining areas,
 - d) *(repealed)*
 - e) a director of a competent regional directorate of the State Forests National Forest Holding (Państwowe Gospodarstwo Leśne Lasy Państwowe) – with respect to forest lands that are the property of the State Treasury being under management of the State Forests National Forest Holding,
 - f) a competent voivodeship monument conservation officer – with respect to heritage protected under the provisions of the Act of 23 July 2003 on Monuments Protection and Preservation (Journal of Laws of 2014, item 1446 and of 2015, item 397, 774, and 1505),
 - g) a competent voivodeship marshal and a starost with respect to local government tasks that are used for carrying out public purpose investments referred to in Article 39.3.3

of the Act of 27 March 2003 on Spatial Planning and Land Development – with respect to areas not covered in current zoning plans,

- h) territorially competent management of a voivodeship, management of a powiat, and of a commune (mayor, town mayor) – with respect to protection of local government infrastructure facilities,
- i) a competent manager of a public road – with respect to a public road that crosses with a railway line,
- j) a competent manager of the railway infrastructure – with respect to the planned railway line that crosses with such railway line of such manager or which is located within the railway area of such manager's line.

4. Upon application of PLK S.A. or a competent local government unit, a competent authority shall issue opinions referred to in paragraph 3.4 within a period not longer than 30 days from the receipt of the application for the opinion. Failure to issue the opinion within such period shall be treated as lack of reservations about the application for the issuance of a decision on determination on the location of a railway line.

5. Subject to paragraph 5a and 5b, the opinions referred to in paragraph 3.4 shall replace arrangements, permits, opinions, or positions of competent authorities required under separate regulations.

5a. A voivode shall agree a draft of a decision on determination of the location of a railway line investment project with a director of a regional water management board of Państwowe Gospodarstwo Wodne Wody Polskie in terms relating to the development and land development of an area located in areas particularly threatened with flooding.

5b. Agreement on a draft of the decision on determination of the location of a railway line investment project referred to in paragraph 5a shall be made by a decision which is referred to in Article 166.5 of the Water Act of 20 July 2017 (Journal of Laws 2021, item 624, 784, 1564 and 1641), within 14 days from delivery of a draft of the decision on determination of the location of a railway line. If a director of a regional water management board of Państwowe Gospodarstwo Wodne Wody Polskie fails to take a position within the indicated period, agreement shall be deemed as made.

5c. The requesting party and the investor are parties to the proceedings into issuance of a decision on agreement of a draft of the decision on termination of the location of a railway line.

6. A voivode shall send a notification about commencement of the proceedings into issuance of a decision on determination of the location of a railway line to the requesting party,

owners, or perpetual usufruct users of the real properties covered by the application for the issuance of such decision to the address indicated in the cadastre of real properties and shall notify other parties about commencement of such proceedings, by way of announcements, put up at a voivodeship office and commune offices competent for the course of the railway line, at web sites of such communes and the voivodeship office, and also in the local press. Service of the notification to the address indicated in the cadastre of real properties is deemed as made. 6a. In the case of real properties the legal status of which is not cleared and in a situation when an owner or a perpetual usufruct user is dead, and their heirs have not shown their right to inherit, the notification referred to in paragraph 6 shall be made by way of announcement in the voivodeship office and commune offices competent for the course of the railway line, in the Bulletin of Public Information (Biuletyn Informacji Publicznej) at the relevant sites of the said communes and the voivodeship office, and also in the local press.

6a.

7. The decision on determination of the location of a railway line shall be issued within 3 months from the submission date of the application referred to in paragraph 1.

8. As from the notification date referred to in paragraph 6, the real properties which are owned by the State Treasury or local government units covered by the application for the issuance of a decision on determination of the location of a railway line may not be subject of marketing within the meaning of the provisions of the Act on Real Property Management of 21 August 1997, subject to paragraph 10.

9. A legal act performed in violation of paragraph 8 shall be invalid.

10. The provision of paragraph 8 shall not apply to lands contributed by Polskie Koleje Państwowe Spółka Akcyjna, hereinafter "PKP S.A.", in the form of an in-kind contribution to PLK S.A. pursuant to Article 17.1 of the Act of 8 September 2000 on Commercialisation, Restructuring, and Privatisation of "Polish State Railways" State Enterprise (Journal of Laws 2021, item 146).

11. If the title of ownership or the right of perpetual usufruct to the real property other than the one referred to in paragraph 8 which is included in the application for the issuance of a decision on determination of the location of a railway line, following delivery of the notification referred to in paragraph 6, the buyer and the seller shall be obliged to notify a competent voivode about the details of a new owner or perpetual usufruct user within 7 days from the sale date. Failure to make the above notification in a timely manner and performance of the proceedings without involvement of a new owner or perpetual usufruct user shall not be the basis for restarting the proceedings under Article 145.1.4 of the Code of Administrative Procedure.

12. As from the delivery date of the notification referred to in paragraph 6, with respect to the real properties covered by the application for the issuance of a decision on determination of the location of a railway line, a decision on a construction permit for other investment project shall not be issued until the final completion of the proceedings into the issuance of such decision, and pending proceedings into those cases shall be subject to suspension until the final completion of the proceedings into the issuance of a decision on determination of the location of a railway line.

13. If intent of performance of construction works is announced, commencement of the proceedings into the issuance of a decision on determination of the location of a railway line shall oblige a competent administration authority for architectural and construction matters to make an objection to such announcement.

14. The provisions of paragraph 12 and 13 shall not apply to pending proceedings that concern public purpose investment projects the preparation and execution of which is carried out pursuant to consent of an entity upon request of which the proceedings into the issuance of a decision on determination of the location of a railway line has commenced.

Article 90a. 1. Entities managing area utility networks shall agree on removal of collisions of network lines with the investment project concerning a railway line within a period of 14 days from receipt of the application of PLK S.A. or a competent local government unit.

2. Failure to make agreement within the period referred to in paragraph 1 shall mean consent to removal of a collision in a manner and pursuant to the terms proposed by PLK S.A. or a competent local government unit.

Article 9p. The decision on determination of the location of a railway line shall not be issued in the case of construction works:

- 1) that involve refurbishing, rebuilding, or extending a railway line, if they do not result in a change of the manner of area development and use of a structure and do not change its architectural form, and when they are not included among the projects requiring proceedings into an environmental impact assessment within the meaning of the Act on the Environmental Protection of 27 April 2001 (Journal of Laws 2020, Item 1219), either, or
- 2) when they do not require a construction permit.

Article 9q. 1. The decision on determination of the location of a railway line shall in particular contain:

- 1) designation of an investment site, including demarcation lines;

- 2) technical conditions for investment project execution;
- 3) conditions underlying legally protected needs of the environmental protection, protection of monuments and modern culture heritage and the state defence needs;
- 4) requirements concerning protection of third party interests;
- 5) approval of the division of the real property referred to in Article 9s.1;
- 6) determination of limitations in using the real property to ensure the right of entry to the real property's area for the purpose of setting a railway line, including the related construction or reconstruction of a road system, including exit to the property, or water facilities, or laying and running land drain pipes and facilities used to transmit liquids, steam, gases, and electricity and communication and signalling devices, and also other underground, over-ground, or above-ground structures and facilities required for using such pipes and devices, and also works related to preservation, maintenance, or breakdown removal;
- 7) marking real properties or their parts, according to the real property cadastre or maps with designs of the division of real properties:
 - a) that are to become the ownership of the State Treasury or a competent local government unit,
 - b) in relation to which the decision on determination of the location of a railway line is to have the effect referred to in Article 9s paragraphs 3b and 3e.
- 8) designation of the real estate, according to the real estate cadastre or maps with designs of designation of real estate, according to the real estate cadastre or maps with designs of division of real estate, for which the decision on the location of the a decision on establishing the location of a railway line shall have the effect of limiting the use of the real property referred to in Article 9s(9).

1a. The limitation referred to in paragraph 1.6 shall be governed by the provisions of Article 124.4–7 and Article 124a of the Act of 21 August 1997 on Real Property Management, respectively.

2. A voivode shall deliver a decision on determination of the location of a railway line to the requesting party and shall send a notification about its issuance to the owners or perpetual usufruct users of the real properties covered by the application for the issuance of such decision to the address indicated in the cadastre of real properties. It shall notify other parties by way of announcements put up at a voivodeship office and commune offices competent for the course of the railway line, at web sites of such communes and the voivodeship office, and also in the local

press. Service of the notification to the address indicated in the cadastre of real properties is deemed as made.

2a. In the case of real properties the legal status of which is not cleared or in a situation when an owner or a perpetual usufruct user is dead, and their heirs have not shown their right to inherit, the notification about the issuance of a decision on determination of the location of a railway line shall be made by way of announcement in the voivodeship office and commune offices competent for the course of the railway line, in the Bulletin of Public Information at the relevant sites of the said communes and the voivodeship office, and also in the local press.

3. The notification about the issuance of a decision on determination of the location of a railway line shall include information about the place where the parties may become familiar with the decision content.

4. The provisions of paragraph 2–3 shall apply to the process of service and notification of the parties about the issuance of a decision on determination of the location of a railway line issued by a second instance authority and also decisions issued pursuant to Article 145, Article 155, Article 156, and Article 161– 163 of the Code of Administrative Procedure, respectively.

5. The minister competent for construction, spatial planning and development and housing shall be an appeal authority for a decision of the voivode on determination of the location of a railway line.

6. A decision on determination of the location of a railway line shall define a term when the real property is to be released and premises and other rooms are to be vacated. The term may not be shorter than 30 days from the date when a decision on determination of the location of a railway line has become final.

7. A change of the decision on determination of the location of a railway line shall be respectively governed by the provision of Article 155 of the Code of Administrative Procedure, provided that consent is expressed only by a party which has submitted the application for the issuance of a decision on determination of the location of a railway line.

8. The provisions of Article 72 paragraph 6 and 6a of the Act of 3 October 2008 on the provision of information about the environment and its protection, public participation in environmental protection and environmental impact assessments (Journal of Laws o2021, items 247, 784, 922, 1211, 1551 and 1718) shall apply to the decision on determination of the location of a railway line, preceded by a decision on environmental conditions.

Article 9r. 1. An appeal of a party against a decision on determination of the location of a railway line shall be reviewed within 21 days, and a complaint lodged with the administrative

court shall be reviewed within 60 days, counting from the day when the appeal to the relevant authority or the complaint to the court has been lodged.

2. In the proceedings before an appeal authority and an administrative court a decision may not be reversed in its entirety or its invalidity may not be established when only a part of the decision is affected by defect relating to a section of the railway line, the real property, or the plot of land.

Article 9s. 1. Division of the real property shall be approved under a decision on the location of a railway line. Maps with designs of the division of real properties form an integral part of a decision on determination of the location of a railway line.

2. Area demarcation lines established under a decision on determination of the location of a railway line shall be the division lines of real properties.

3. By force of law, the real properties referred to in Article 9q.1.7 shall become the property of:

- 1) the State Treasury – in the case of an application for issuance of a decision on determination of the location of a railway line submitted by PLK S.A.,
- 2) local government unit – in the case of an application for issuance of a decision on determination of the location of a railway line submitted by such unit

– as from the day on which a decision on determination of the location of a railway line has become final.

3a. If limited property rights have been established on the real property referred to in paragraph 3 or on the right of perpetual usufruct right to such real property, such rights shall expire as from the day on which a decision on determination of the location of a railway line has become final.

3b. By force of law, as from the day when a decision on determination of the location of a railway line has become final, PLK S.A. shall acquire the right of perpetual usufruct of land properties acquired by law by the State Treasury or being its property, with the exclusion of the real properties referred to in paragraph 3e and the ownership title to buildings, other facilities, and premises located on such real properties.

3c. The first and annual fees shall not be charged for acquisition of the perpetual usufruct right pursuant hereof, and the acquisition of the ownership of buildings, other facilities, and premises located on real premises referred to in paragraph 3b shall be done free of charge.

3d. Income from the acquisition of the rights referred to in paragraph 3b shall be exempt from income tax.

3e. Real properties on which construction or rebuilding of national roads is planned, as defined in a decision on determination of the location of a railway line, as from the day on which the decision has become final, shall be handed over by a voivode for permanent administration of the General Directorate for National Roads and Motorways.

4. Provision on real property management shall be applied to determine the amount and disbursement of damages in the cases referred to in paragraph 3 and 3a, respectively, subject to Article 9y and 9z.

5. The decision on determination of the location of a railway line shall be the basis for making entries in the land and mortgage register and the cadastre of real property rights referred to in paragraph 3 and 3b.

6. The provisions of paragraph 2 and 3 shall not apply to the real properties which are under the ownership or perpetual usufruct of PKP S.A. or PLK S.A.

7. Until the day when a construction permit has been obtained, the real properties referred to in paragraph 3 may be used free of charge by their hitherto owners or persons who have had other legal titles to the real properties, subject to Article 9w.

8. As from the day on which the decision on determination of the location of a railway line has become final, PLK S.A. or a relevant local government unit shall obtain the right to manage the real properties referred to in paragraph 3, 3b and 9 and Article 9q.1.6, for construction purposes within the meaning of the provisions of the Construction Act of 7 July 1994 (Journal of Laws 2020, item 1333), hereinafter "Construction Law", z taking into account Article 9w.4.

9. With regard to real estate covered by a decision on the location of a railway line, marked in accordance with Article 9q.1.8, in order to ensure the right to enter the real estate in connection with the railway investment involving the construction or reconstruction of a tunnel, as well as works related to its conservation, maintenance or failure removal, the voivode, in the decision on determining the location of the railway line, will limit, for compensation, the way of using the real estate by granting a permit for the construction or reconstruction of the tunnel and the related road system or water facilities, drainage lines, pipes and devices for the transmission of liquids, steam, gases and electricity as well as public communication and signalling devices, as well as other underground, above-ground or above-ground facilities and equipment necessary for the use of these cables and devices.

10. To the compensation referred to in paragraph 9, are entitled to the owners or perpetual usufructuaries of real estate, marked in accordance with Article 9q.1.8, from the entity for which the decision on determination of the location of the railway line is issued.

10a. The amount of compensation referred to in paragraph 9 is determined by the voivode, by way of a decision, within no more than 180 days from the date on which the decision to determine the location of the railway line becomes final.

11. To determine the compensation referred to in paragraph 9, the provisions of Article 9y paragraphs 3 and 4. The costs of determining the amount of compensation are covered by the entity for which the decision on determination of the location of the railway line is issued.

Article 9t. 1. (repealed)

2. If in the event referred to in Article 9s.3, part of the real property has been acquired, and the remaining part does not fit for proper use for the hitherto purposes:

- 1) PLK S.A. shall acquire that part of the real property for and on behalf of the State Treasury by way of an agreement upon request of the owner or the perpetual usufruct user of the real property;
- 2) local government unit shall acquire that part of the real property by way of an agreement upon request of the owner or the perpetual usufruct user of the real property.

3. As from the execution date of the agreement referred to in paragraph 2.1 the real property acquired for the State Treasury shall be part of real property resources of the State Treasury. As from that day, pursuant to the provisions of the Act of 21 August 1997 on Real Property Management the starost shall manage the real property.

4. Within 7 days from its execution date, a notary public drafting the agreement referred to in paragraph 2 shall send a copy of a notarial deed of such agreement to a relevant starost.

5. The real property acquisition price referred to in paragraph 2 may not be higher than the market value of the rights to such real property estimated by a property appraiser determined for the hitherto manner of its management.

6. Payment of the real property acquisition price referred to in paragraph 2.2 or paragraph 3 shall be made to the seller by PLK S.A. or a local government unit within 30 days from the execution date of the agreement referred to in paragraph 2.

Article 9u. The provisions on administrative enforcement proceedings shall apply to enforcement of the obligations under the decision on determination of the location of a railway line.

Article 9w. 1. The voivode shall order that the decision on determination of the location of a railway line be immediately enforceable upon request of PLK S.A. or a relevant local government unit justified by social or economic interests.

2. The decision referred to in paragraph 1 shall be immediately enforceable if it is required to demonstrate the right to manage the real properties for construction purposes within the meaning of the Construction Act.

3. The decision referred to in paragraph 1 shall:

- 1) grant to PLK S.A. or a local government unit the right to manage the real property for the construction purposes;
- 2) oblige to immediately issue the real property, vacate the premises and other rooms;
- 3) entitle to actual possession of the real property by PLK S.A. or a local government unit;
- 4) authorise a voivode to issue a decision on a construction permit.

3a. In the case referred to in paragraph 3.4, a construction design shall include a plot or area development design prepared on a map with the designs of the division of the real property as provided for in the decision referred to in paragraph 1.

4. If the decision referred to in paragraph 1, applies to the real property developed with a residential building or a building in which a residential dwelling has been separated, PLK S.A. or a local government unit shall be obliged, within a period of actually obtaining possession of the real property, to indicate a replacement dwelling within the provisions of the Act of 21 June 2001 on Protection of the Rights of Tenants, Housing Resources of Communes and Amendments to the Civil Code (Journal of Laws 2020, item 611 and Journal of Laws 2021, item 11 and 1243).

5. In the event whereby when actual possession of the real property occurs after the expiry of the date referred to in Article 9q.6, PLK S.A. or a local government unit shall not be obliged to indicate a replacement dwelling.

6. A person to whom the replacement dwelling has been indicated shall be obliged to vacate it not later than on the date of the expiry of the period referred to in Article 9q.6.

Article 9x. 1. The decision on determination of the location of a railway line shall be the basis for issuance of a decision by a voivode on the expiry of permanent administration established over the real property allocated for a strip of land for a railway line which is the property of the State Treasury or a local government unit.

2. If the real property owned by the State Treasury allocated for a strip of the railway line has been previously lease, rented or rented for use, the decision on determination of the location of the railway line shall be the basis for terminating the agreement on lease, rent, or rent for use by PLP S.A. or a local government unit with an immediate effect. Compensation shall be due either from PLK S.A. or a local government unit for losses incurred as a result of agreement termination.

3. (repealed)

4. If the real property owned either by the State Treasury or a local government unit allocated for a strip of land for the railway line has been put under perpetual usufruct, such usufruct shall expire in exchange for compensation, as from the date on which the decision on determination of the location of a railway line has become final, determined pursuant to the rules provided for in the regulation on real property management, subject to Article 9y and Article 9z.

5. The provision of paragraph 4 shall be accordingly applied to perpetual usufruct acquired in a manner other than by way of an agreement executed in the form of a notarial deed.

6. The provisions of paragraph 4 and 5 shall not apply to the real properties which are under perpetual usufruct of PKP S.A. or PLK S.A.

Article 9y. 1. Compensation shall be due to the hitherto owners or perpetual usufruct users, and also persons who are entitled to limited property rights for the real properties and limited property rights referred to in Article 9s.3 and Article 9s.3a and Article 9x.4 from an entity to which the decision is issued on determination of the location of a railway line.

2. The compensation amount shall be determined by a voivode by way of a decision within 30 days from the date on which the decision on determination of the location of a railway line has become final.

3. The compensation amount shall be determined on the basis of a property appraisal report prepared by an appraiser, pursuant to the real property status as on the issuance date of the decision on determination of the location of a railway line by a first instance authority and pursuant to its value on the issuance date of a decision determining the compensation amount. Compensation shall be indexed as of the disbursement date pursuant to the rules applicable in the case of restitution of the expropriated real properties.

3a. In the case referred to in Article 9s.3a, the amount of compensation due to the hitherto owner or perpetual usufruct user shall be lowered by an amount equal to the value of expired limited property rights.

3b. The sum of the amount of compensation due to the hitherto owner or perpetual usufruct user, with the exclusion of the amounts referred to in paragraphs 3e and 3f and the amount of compensation due to the expiry of limited property rights established on such real property or the right of usufruct use may not exceed the value of the real property or the value of the right of perpetual usufruct.

3c. If a mortgage is established on the real properties referred to in Article 9s.3 or the right of perpetual usufruct to such real properties, the amount of compensation due to the mortgage

expiry shall be determined as an amount of the principal contractual obligation secured by the mortgage together with interest secured by such mortgage. Such compensation shall be accounted for towards repayment of the principal contractual obligation secured by the mortgage together with interest.

3d. Compensation due under the expiry of limited property rights in the amount established as on the day referred to in paragraph 3 shall be disbursed those persons who have been entitled to such rights.

3e. If the hitherto owner or perpetual usufruct user of the real property covered by the decision on determination of the location of a railway line immediately issues such real property or issues such property and vacates the premises and other rooms, respectively, however, not later than within 28 days from the date of:

- 1) delivery of the notification on issuance of the decision which is referred to in Article 9q.2,
- 2) delivery of an order that the decision on determination of the location of a railway line be immediately enforceable, or
- 3) under which the decision on determination of the location of a railway line has become final,

– the compensation amount shall be increased by an amount equalling 5% of the value of the real property or the right of perpetual usufruct.

3f. If the decision on determination of the location of a railway line applies to the real property developed with a residential building or a building in which a residential dwelling has been separated, the amount of compensation due to the hitherto owner or perpetual usufruct user in such building or dwelling shall be increased by an amount of PLN 10,000 in respect of such real property.

4. The compensation shall be payable within 14 days from the date on which the decision on determination of compensation referred to in paragraph 2 has become final.

5. If taking over the real properties referred to in Article 9s.3 refers to taking over an area on which infrastructure facilities are located which are used by local government units to perform their own tasks with the use of funds from the budget of the European Union or other foreign sources, the compensation shall be increased by an amount of funds which come from co-financing which are reimbursable together with interest due in accordance with regulations governing the rules of reimbursement of co-financing. The compensation in part that transfers the compensation due pursuant to the rules provided in the Act of 21 August 1997 on Real Property Management shall be awarded subject to a terminating condition which a local

governing unit shall reimburse co-financing together with interest due in a manner and at the date provided for in relevant regulations.

6. The provisions of Article 38.1.3 and Article 38.2 shall apply to financing of disbursement of compensations which are referred to in paragraph 1 and 2, disbursement of the acquisition price of the real properties referred to in Article 9t, and other costs related to their acquisition, the costs underlying execution of the obligation referred to in Article 9w.4.

7. If it is supported by a social or an economic interest, the State Treasury or a local government unit may waive, in whole or in part, the right to the compensation for the real properties referred to in Article 9q.1.7 in writing otherwise being null and void. Such statement may be submitted only by the time the final decision on determination of the compensation has been issued.

8. In the event of a waiver of the right to the compensation for the real properties referred to in paragraph 1:

- 1) before the proceedings to determine the compensation amount have been started – the proceedings shall not be started;
- 2) in the course of the proceedings to determine the compensation amount – the proceedings shall be discontinued.

Article 9ya. 1. If the execution of a railway investment project requires passing through areas of flowing waters or public roads, PLK S.A. or a relevant local government unit shall be authorised to occupy them for the duration of the investment project free of charge.

2. A decision permitting free of charge occupation of a right of way which is referred to in Article 40.1 the Act of 21 March 1985 on Public Roads (Journal of Laws 2021, item 1376 and 1595) shall be issued by a road administrator within 30 days from the request submission date.

3. If the decision on determination of the location of a railway line is to be immediately enforceable, a decision permitting free of charge occupation of the right of way shall be issued immediately.

4. PLK S.A. or a local government unit, not later than within 30 days before the planned occupation of the area of flowing waters shall agree by way of written understanding with relevant entities referred to in Article 212.1 of the Water Act of 20 July 2017, the scope, the terms and conditions, and the date of such occupation.

5. If the decision on determination of the location of a railway line is to be immediately enforceable, the understanding referred to in paragraph 4 shall be made immediately.

6. Compensation determined pursuant to the rules provided in the Civil Code shall be due for PLK S.A. or a local government unit for damage caused as a result of the actions referred to in paragraph 1.

Article 9yb. 1. The State Forests National Forest Holding (State Forests) managing the real properties referred to in Article 9q.1.7, pursuant to the Act of 28 September 1991 on Forests (Journal of Laws 2021, item 1275 and 1718), shall be obliged to fell trees and bushes and remove them free of charge by the date determined in a separate agreement between the State Forests and PLK S.A. or a relevant local government unit.

2. Wood obtained from felling trees and bushes referred to in paragraph 1 shall become the property of the State Forests free of charge.

3. The costs of felling trees and bushes below 20 years of age and their removal shall be borne by PLK S.A. or a relevant local government unit.

Article 9yc. 1. The provisions of the Act of 3 February 1995 on the Protection of Agricultural and Forest Land shall not apply to agricultural and forest land included in the decision on determination of the location of a railway line.

2. The provisions of the Act of 16 April 2004 on Nature Conservation (Journal of Laws 2021, item 1098 and 1718) shall not apply to the removal of trees and bushes located on the real properties covered by the decision on determination of the location of a railway line, with the exception of the trees and bushes entered in the register of monuments to the extent of the obligation of obtaining permits for their removal and the related fees.

Article 9z. 1. At the request of the entitled person, an advance payment is made in the amount of 70% of the compensation specified in the decision determining the amount of compensation. In the event of an appeal of the entitled person against the decision establishing the amount of compensation, the advance payment shall not affect the ongoing appeal proceedings. The advance payment is made once within 30 days from the date of submitting the application.

1a. The entitled person to whom the advance payment was made, his heir or legal successor are obliged to return the advance payment after its indexation as of the date of return, if the decision on the location of the railway line has been changed in the part concerning that person, revoked in whole or in part concerning this person or its invalidity has been confirmed.

2. The provision in paragraph 1, the first sentence shall not apply, if a party appealing against the decision determining the compensation amount is an entity upon whose request the decision on determination on the location of a railway line has been issued.

Article 9aa. (repealed)

Article 9ab. (repealed)

Article 9ac. 1. A voivode shall issue a permit for the construction of a railway line or individual sections of such line and all facilities related to its construction, rebuilding, and extension, located within the borders of a voivodeship, pursuant to the rules and in accordance with the provisions of the Construction Act and shall deliver it to the requesting party, and notify the other parties about its issuance, by way of an announcement, in a voivodeship office and offices of communes competent for the course of the railway line, on websites of such communes and the voivodeship office, and also in the local press.

1a. The provision of paragraph 1 governing the manner of notification of the parties shall be accordingly applied to a notification on commencement of the proceedings on issuance of a decision on the construction permit. The provisions of paragraph 1 shall also apply in the event whereby the proceedings concern a real property with an unsettled legal status and in a situation whereby the owner or perpetual usufruct user are dead, and their heirs have not demonstrated their right to the inheritance.

2. Invalidity of the final decision on construction of the railway line is not established, if an application for the establishment of the invalidity of such decision has been filed after 60 days from the day on which the decision has become final, and the investor has commenced construction of the railway line. Article 158.2 of the Code of Administrative Procedure shall be applied accordingly.

3. If an appeal against the decision on construction of the railway line which has been immediately enforceable has been considered, after 60 days from the commencement of construction of the railway line an administrative court may only state that the decision violates the law due to the reasons listed in Article 145 or Article 156 of the Code of Administrative Procedure.

3a. The provisions of paragraphs 2 and 3 shall not apply in the case of non-compliance of the decision on the construction permit for a railway line with:

- 1) a decision on environmental conditions or
- 2) the decision referred to in Article 90.1 of the Act of 3 October 2008 on the provision of information on the environment and its protection, public participation in environmental protection and on environmental impact assessments.

4. The provisions of paragraph 2 and 3 shall be applied accordingly to the decision on determination of the location of a railway line.

5. The authority of the first instance of architectural and construction administration in matters relating to the tram line implemented under this Chapter is the competent voivode.

6. The first instance construction supervision authority in matters relating to the tram line implemented under this Chapter is the competent voivodeship construction supervision inspector.

Article 9ad. 1. Matters that have not been provided for herein shall be governed by the provisions of the Act of 21 August 1997 on Real Property Management.

2. (repealed)

3. Matters concerning the location of railway lines, executed pursuant to the provisions of this Chapter shall not be governed by the regulations on spatial planning and land development, subject to Article 9n.2 and Article 9o.3.4.g, and the provisions of the Act of 9 October 2015 on Revitalisation (Journal of Laws 2021, item 485).

Article 9ae. Issuance of the decision on determination of the location of a railway line or the decision on a construction permit of a railway line may not be dependent on satisfaction of performance or the terms and conditions not provided for under the applicable regulations.

Article 9af. If execution of a railway investment project requires a water permit, either Państwowe Gospodarstwo Wodne Wody Polskie, or a minister competent for water management, respectively, shall issue such permit within a period not longer than 30 days from submission of the application for its issuance. In matters concerning the water permit Article 396.1.7, Article 407.2.3, and Article 422.3 of the Water Act of 20 July 2017 shall not apply. For the purposes of determination of a legal status of the real properties referred to in Article 409.1.2.e of the Water Act of 20 July 2017, the offices and addresses of the owners of such real properties shall be determined in accordance to the real property cadastre.

Article 9ag. 1. The task of reconstruction or construction of a public road, network or water device to the extent resulting from the need to adapt them to investments relating to railway lines is carried out by PLK S.A. or the competent local government unit on the basis of an agreement with the competent manager of a public road, network or water device, which specifies in particular the date of taking over the obligation to maintain a public road, network or water device by the competent manager.

2. The task referred to in paragraph 1, may be implemented by the competent manager of a public road, network or water device, in the manner specified in separate regulations, at the

expense of PLK S.A. or the relevant local government unit on the basis of an agreement which specifies in particular the terms of financing the task by PLK S.A. or the competent local government unit.

Chapter 3

President of the Office of Rail Transport

Article 10. 1. The President of the Office of Rail Transport (Prezes Urzędu Transportu Kolejowego), hereinafter “President of UTK”, shall be a central governmental administration authority that is a national safety authority and a national regulator of railway transport within the meaning of the legal provisions of the European Union in terms of safety, interoperability, and regulations governing railway transport, competent in the following matters:

- 1) regulations governing railway transport,
- 2) railway transport licensing,
- 3) technical supervision over operation and maintenance of the railway infrastructure and railway vehicles,
- 4) railway traffic safety,
- 5) interoperability and technical cohesion of railway transport,
- 6) licenses and certificates of train drivers.

1a. The President of UTK shall be a body competent in matters of supervision over compliance with passengers' rights in railway transport.

2. Competence of the President of UTK in matters concerning regulations of railway transport, referred to in paragraph 1 and supervision over compliance with passengers' rights, referred to in paragraph 1a, shall not apply to the Metro.

3. The President of UTK shall be a market supervision body within the meaning of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems (Journal of Laws 2016, item 514 and 925), with regard to

- 1) products to be used in the railway infrastructure, railway sidings, narrow-gauge railways, and in the Metro, which are related to operation and safety of traffic, and also performance of transport services of passengers and goods and operation of railway vehicles;
- 2) cable railway installations, modifications to cable railway installations requiring a new permit and to subsystems and safety components to which the provisions of the Regulation (EU) 2016/424 of the European Parliament and of the Council of 9 March 2016 on cableway installations and repealing Directive 2000/9/EC (OJ L 81, 31.3.2016, p. 1–50).

3a. The provisions of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems shall be applied to conformity assessment of the products which are referred to in paragraph 3, accreditation, authorisation, and notification in that respect, and also to control the conformity of such products with the requirements or whether they pose a hazard and in proceedings concerning them.

4. (repealed)

5. (repealed)

6. (repealed)

Article 11. 1. The President of UTK shall be appointed by the President of the Council of Ministers from among persons chosen in an open and competitive selection process.

2. A person may be appointed to the position of the President of UTK who:

- 1) is a Polish citizen;
- 2) has a professional title of a master of science or its equivalent, or an engineer title;
- 3) enjoys full civil rights;
- 4) has not been sentenced by a final judgement for a criminal offence or a tax offence committed wilfully;
- 5) has managerial competences;
- 6) has at least a 6-year period of service, including at least a 3-year period of service in a managerial position;
- 7) has education and knowledge in matters within the competence of the President of UTK or other authorities competent for network sectors.

3. Selection for the position of the President of UTK shall be performed by a team appointed by the Head of the Chancellery of the President of the Council of Ministers by authority of the President of the Council of Ministers, which is composed of at least 3 persons whose knowledge and experience warrant selection of best candidates. The team members shall be appointed from among persons who are financially and organisationally independent from a minister competent for transport.

4. Information on selection for the position of the President of UTK shall be made by placing an announcement in a generally accessible place in the Office of Rail Transport (UTK), in the Bulletin of Public Information of the Office of Rail Transport and in the Bulletin of Public Information of the Chancellery of the President of the Council of Ministers. The announcement shall contain:

- 1) name and address of the Office of Rail Transport;

- 2) indication of the position;
- 3) requirements concerning the position as provided for in the regulations of the law;
- 4) scope of tasks performed in the position;
- 5) indication of the required documents;
- 6) date and place where documents must be filed;
- 7) information on selection methods and techniques.

5. The period referred to in paragraph 4.6 may not be shorter than 10 days from the publication date of the announcement in the Bulletin of Public Information of the Chancellery of the President of the Council of Ministers.

6. In the course of selection assessment shall be made of the candidate's professional experience, knowledge necessary for the performance of tasks in the position for which selection is made, and managerial competences. The assessment of knowledge and managerial competences may be carried out to order of the team by a person who is not a team member, and who has relevant qualifications for assessment performance.

7. A team member and the person referred to in paragraph 6 shall be obliged to keep confidential information about the candidates seeking appointment which has been obtained in the course of selection.

8. The team shall draft a report from the completed selection process containing:

- 1) name and address of the Office of Rail Transport;
- 2) indication of a position for which selection has been conducted, and the number of candidates;
- 3) first names, surnames, and addresses of not more than 3 best candidates listed in an order of their satisfaction of the requirements defined in the selection announcement;
- 4) information on the applied selection methods and techniques;
- 5) justification of the selection made or reasons for failure to select a candidate;
- 6) composition of the team.

9. Upon request of the President of UTK the President of the Council of Ministers shall appoint 2 Vice-presidents of the Office of Rail Transport, hereinafter "Vice-presidents of UTK", from among persons chosen in an open and competitive selection process.

10. Selection for a position of a Vice-president of UTK shall be performed by a team appointed by the President of UTK.

11. The provisions of paragraph 4 to 8 shall be applied to the selection process for a position of the Vice-president of UTK accordingly.

12. The result of the selection process for the position of the President of UTK and a Vice-president of UTK shall be announced immediately in a manner indicated in paragraph 4.

Information on the result of the selection process contains:

- 1) name and address of the Office of Rail Transport;
- 2) indication of a position for which selection has been conducted;
- 3) first names and surnames of the selected candidates and places of their residence within the meaning of the provisions of the Civil Code or information on failure to select a candidate.

Article 11a. 1. The President of UTK may not occupy another position, with the exception of a teach position in a university, or perform any paid-for professions.

2. The President of UTK may not be a member of a political party, a trade union, or be involved in public activities that are contrary to impartiality and independence of the position.

3. The President of UTK and the Vice-presidents of UTK shall submit to the President of the Council of Ministers an annual statement by 31st December on no relations with entities that are subject to the regulations and on no conflicts of interest. The statement discloses any direct or indirect circumstances that may be recognised as threatening their independence and impacting the performance of their functions.

4. A person who performs the function of the President of UTK or a Vice-president of UTK shall be subject to exclusion in the proceedings into a case of an entrepreneur with whom such person had a direct or indirect relation over a period of one year prior to the commencement of proceedings.

Article 11b. 1. The term of office of the President of UTK shall be 5 years since the date of appointment.

2. The procedure of the selection for the position of the President of UTK for another term of office shall be conducted not later than 60 days prior to the end of the current term of office.

3. Following expiry of the term of office, the President of UTK shall perform his function until his successor has been appointed.

4. The President of the Council of Ministers shall recall the President of UTK in the event of:

- 1) disclosure that he does not meet the requirements referred to in Article 11.2;
- 2) order on being disqualified from holding managerial positions or performing functions related to special responsibility in state authorities;
- 3) illness that permanently prevents performance of tasks;

- 4) occurrence of the circumstances that affect independent performance of the function;
- 5) submission of his resignation.

5. Information on recalling the President of UTK with reasons for his recalling shall be publicly disclosed by its announcement in the Bulletin of Public Information of the Office of Rail Transport and in the Bulletin of Public Information in the Chancellery of the President of the Council of Ministers.

6. In the event of death or recalling of the President of UTK, a Vice-president of UTK indicated by the President of the Council of Ministers shall perform the function of the President of UTK until his successor has been appointed.

7. The President of the Council of Ministers shall recall a Vice-president of UTK upon request of the President of UTK.

8. Within a period of one year from ceasing the performance of the function of the President of UTK or a Vice-president of UTK responsible for regulating railway transport, such person may not perform any function, including performance of work or services pursuant to any legal title in entities that are subject to regulations on the basis of the provisions of the Act.

Article 12. 1. The President of UTK shall perform his tasks with the help of the Office of Rail Transport.

2. The Office of Rail Transport has regional branches.

3. The President of the Council of Ministers shall grant the by-law defining the organisation of the Office of Rail Transport and the offices of the regional branches by way of a regulation.

4. Detailed organisation and a division of tasks in the Office of Rail Transport shall be defined by the President of UTK in the organisational rules.

Article 13. 1. The tasks of the President of UTK relating to railway transport regulation include:

- 1) supervising equitable and non-discriminatory treatment of all applicants by infrastructure managers in terms of access to the railway infrastructure by :
 - a) controlling the correct development and application of the network statement referred to in Article 32,
 - b) supervising conclusion of contracts for the capacity allocation and utilisation contracts;
 - c) handling cases relating to occasional passenger transport services,
 - d) supervising the correctness of setting and collection of charges by the infrastructure manager for making the railway infrastructure available;

- 2) supervising equitable and non-discriminatory treatment of all railway undertakings by service facility operators in terms of access to service facilities by:
 - a) controlling the correct development and application of the service facility statement+ referred to in Article 36f,
 - b) supervising the conclusion of contracts with service facility operators,
 - c) supervising the correctness of setting and collection of charges by the service facility operators for using the service facility;
- 3) issuing opinions on transport plans in terms of rail passenger transport services;
- 4) issuing opinions on drafts public service contracts;
- 5) issuing decisions on open access;
- 6) supervising compliance with the accounting regulations by managers, railway undertakings, and service facility operators with the provisions of the Act relating to accounting and infrastructure manager independence;
- 7) performing the function of the independent designated body referred to in the second sentence of Article 5 (7) of Regulation (EC) No 1370/2007 of the European Parliament and of the Council of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1, as amended).

1a. The tasks of the President of UTK regarding supervision of entities the activities of which impact railway traffic safety and safety of railway operations shall include:

- 1) issuing, renewing, amending, and revoking single safety certificates and safety authorisations, as well as keeping and updating registers of these documents;
- 1a) issuing, prolonging, amending and revoking of safety attestations, as well as keeping and updating registers of these documents;
- 1b) conducting examinations for:
 - a) candidates for train drivers applying for a train driver licence, hereinafter referred to as "examination for train driver licence",
 - b) candidate train drivers applying for the train driving licence, hereinafter referred to as the "examination for the train driving licence";
- 2) issuing, renewing, suspending, restoring, and revoking a train driving licence, updating data included in a train driving licence, issuing copies of a train driving licence, and keeping and updating the register of these documents;
- 3) acting as a certification body defined in Article 2(b) of Commission Implementing Regulation (EU) 2019/779 of 16 May 2019 laying down detailed rules for a certification

system for entities in charge of vehicle maintenance in accordance with Directive 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 445/2011 (OJ L 139, 27.05.2019, p. 360, as amended), hereinafter "Regulation (EU) No 2019/779";

- 3a) granting, refusing to grant, revoking, suspending, and changing the scope of authority for an organisational unit to perform technical inspections necessary for obtaining permissions to operate a railway vehicle type, type conformity certificate, and issuing type approval certificates and type conformity certificates, and also controlling the compliance by organisational units authorised to perform such activities with the requirements specified in Article 22g.2;
- 3b) designating and refusing to designate an applicant entity to carry out tasks of the designated entity, and the revocation, suspension and amendment of the scope of designation of designated entities;
- 4) checking compliance with conditions or requirements included in safety authorisations, single safety certificates, safety attestations and supervising the compliance of managers or railway undertakings with the European Union and national legislation in the field of rail transport safety;
- 5) supervising training and examination centres for train drivers and candidate train drivers, hereinafter referred to as "training and examination centres", and the bodies entitled to carry out medical and psychological examinations and assessments in order to check medical, physical and psychological requirements necessary for obtaining a train driving licence and train driving certificate are met and to ensure that they remain valid;
- 5a) keeping and updating:
 - a) register of training and examination centres,
 - b) list of bodies entitled to perform medical and psychological examinations and to assess the fulfilment of medical, physical and psychological requirements necessary to obtain a train driver licence and the train driver's certificate are met and to ensure that they remain valid,
 - c) national register of train and rail vehicle drivers.
- 6) checking that managers, railway undertakings and railway sidings users comply with their obligations on rail transport safety, and in particular:
 - a) the observance of the rules of railway traffic management and signalling, as specified in the regulations issued on the basis of Article 17.7,

- b) the technical conditions for the operation of railway vehicles, as defined in regulations issued on the basis of Article 20, including the validity of the certificates of technical fitness referred to in Article 24 and the documents to be kept on board a railway vehicle in motion, as defined in regulations issued on the basis of Article 25.1 of Directive 2004/39/EC,
 - c) conditions to be met by train drivers and by persons working in positions directly related to the performance and safety of railway traffic operations and operating certain types of railway vehicles referred to in Article 22b.1 and Article 22d.1;
- 7) supervising the observance of safety rules in rail transport and the correct maintenance and operation of railway lines and sidings, and other railway routes;
 - 7a) supervision over proceedings conducted by a railway committee referred to in Article 28m.1;
 - 7b) monitoring competences of railway staff to ensure safety in rail transport;
 - 8) analysis of reports on safety which are referred to in Article 17a.4;
 - 9) monitoring, promoting, implementing and expanding the scope of safety regulations, including a system of national safety rules;
 - 10) consulting all stakeholders and interested parties, including managers, railway undertakings, manufacturers, maintenance suppliers and representatives of staff and users.

1b. In terms of supervision over compliance with the passengers' rights in railway transport, the tasks of the President of UTK shall include supervision over compliance with:

- 1) provisions of Regulation No 1371/2007/EC;
- 2) prohibition of applying illegal practices which violate collective interests of passengers in railway transport.

2. The tasks of the President of UTK in terms of cohesion of a rail system, including supervision over technical solutions which affect safety in railway traffic and safety of the Union rail system shall include:

- 1) issuing, refusing to issue and withdrawing authorisations for the placing in service of structural subsystems "infrastructure", "energy" and "control-command and signalling track-side equipment" located in the territory of the Republic of Poland;
- 2) issuing, renewing, amending and revoking permits for placing a railway vehicle on the market or permits for a type of vehicle, where the area of use is restricted solely to the territory of the Republic of Poland;

2a) issuing temporary authorisations for the use of a railway vehicle for testing purposes on the railway network on which the railway vehicle is to be used;

2b) verifying, in the territory of the Republic of Poland, that the interoperability constituents meet the essential requirements of the rail system;

- 3) issuing, refusing to issue and withdrawing type certificates, and maintaining and updating the register of such certificates;
- 3a) the authorisation of conformity assessment bodies applying for notification;
- 4) dealing with requests to assign, change or withdraw a letter identifier to an authorising officer (VKM74) and providing the Agency with information in this respect;
- 5) control of carriage of dangerous goods by rail;
- 6) (repealed)
- 7) issuing and changing the European Vehicle Number (EVN), deregistration of railway vehicles and changes to other registration data in the European Vehicle Register (EVR);
- 7a) keeping and updating the national register of infrastructure (RINF);
- 8) handling cases relating to the processing of requests for derogations, submitting to the European Commission the documents needed to obtain the derogations referred to in Article 25f;
- 9) issuing decisions as to whether a new authorisation for placing in service is needed for a structural subsystem after upgrade.

3. The obligation of obtaining the certificates referred to in paragraph 2.3 shall not apply to technical facilities which are subject to the regulations on technical inspection.

3a. In order to perform the tasks referred to in paragraph 1, the President of UTK shall:

- 1) collect and analyse the information on the market of rail transport services, including:
 - a) monitoring of competition on the market of rail transport services, including the market for international railway services, using consultations with regulatory bodies of other Member States of the European Union through which routes of international trains run, and in relevant cases with the European Commission and applying to them for any necessary information,
 - b) conducting consultations at least once every 2 years with the interested organisations representing passengers and users of rail freight transport services to obtain their opinions about the railway market;
- 2) co-operating with relevant authorities with regard to:
 - a) preventing application of monopolistic practices by managers and applicants,
 - b) co-ordination of operation of the railway transport market,
 - c) compliance with passengers' rights;

- 3) may require managers, joint bodies set up by the managers for the provision of railway infrastructure, operators of service facilities, railway undertakings and applicants to provide the necessary information for the purpose of regulating and monitoring the rail transport market, in particular to ensure non-discriminatory treatment of applicants;
- 4) may require managers to report on lack of capacity due to unscheduled maintenance work on the railway infrastructure;
- 5) supervise negotiations between applicants and managers on the level of railway infrastructure access charges, with a view to ensuring non-discriminatory treatment of applicants, if such negotiations take place;
- 6) supervise the conclusion and monitor the performance of the agreement referred to in Article 9mm.1.

3b. The information referred to in paragraph 3a.3 should be provided within a period indicated by the President of UTK not shorter than 7 days from the request delivery date. Upon a justified motion of an entity to which a request has been submitted, the President of UTK may extend the information provision period by 14 days.

3c. The President of UTK shall review complaints:

- 1) of applicants concerning:
 - a) the network statement referred to in Article 32,
 - b) access to the railway infrastructure, including allocation of capacity,
 - c) the charging scheme for the provision of railway infrastructure,
 - d) operation of rail traffic,
 - e) planned and unplanned works for renewal or maintenance of railway infrastructure,
 - f) infringement of Chapter 2aa;
- 2) of railway undertakings concerning access to service facilities and the method of calculating and the system of collecting charges for services provided in these facilities;
- 3) matters referred to in Article 22b.4;
- 4) passengers relating to the violation of passengers' rights in railway transport.

3d. In the event of a claim or proceedings started on one's own account into a case concerning provision of the railway infrastructure or collection of fees relating to an international train route, the President of UTK shall carry consultations with regulatory authorities from all other Member States of the European Union through which an international route of a given train passes, and in relevant cases with the European Commission and shall request them for any necessary information to establish of violation of the regulations has occurred in that respect.

3e. In relevant cases, in order to review a complaint, the President of UTK shall apply for the provision of information necessary for its review or shall commence consultations with all relevant parties.

4. The President of UTK shall be authorised to control the compliance with the regulations and implementation of decisions and orders relating to railway operations.

4a. The President of UTK shall be entitled to carry out audits or to initiate external audits at managers, operators of service facilities and railway undertakings to check compliance with regulations on separation of accounts and transparency of financial relations between these entities.

4b. Within the scope of audit referred to in paragraph 4a, the President of UTK is entitled to request managers, operators of service facilities and railway undertakings or other entities performing or integrating various types of railway transport or managing railway infrastructure, to provide all or part of information, particularly concerning

- 1) provide separate profit and loss accounts and balance sheets for freight, passenger and infrastructure management activities;
- 2) the sources and use of public funds and compensation funds;
- 3) cost and profit categories to determine whether cross-subsidisation of different activities has taken place;
- 4) setting and collecting charges for the use of railway infrastructure or for access to and supply of services in the service facility;
- 5) financial results;
- 6) the methodology used to allocate costs to the various activities;
- 7) payments made by the auditee within the business group to which it belongs.

4c. The powers referred to in paragraphs 4a and 4b shall be vested in the President of UTK also with regard to each of the sub-entities of the vertically integrated undertaking.

4d. If, on the basis of the information referred to in paragraph 4b, the President of the UTK finds that the provisions on public aid have been breached, he shall notify the President of the Office of Competition and Consumer Protection.

5. (repealed)

6. (repealed)

6a. (repealed)

7. (repealed)

7a. (repealed)

7b. (repealed)

7c. If the President of UTK recognises that the applicable European specifications fail to meet the essential requirements of the rail system interoperability, he shall inform the European Commission accordingly.

7d. Within its supervision powers over entities authorised to conduct medical and psychological examination and to adjudicate to check whether health, physical, and psychological requirements necessary for obtaining a train driving licence have been satisfied, and also to keep them valid, the President of UTK shall have the right to:

- 1) enter the premises of an entity performing medical and psychological examinations;
- 2) control medical and psychological documentation related to the performed examinations and adjudication;
- 3) request oral and written explanations.

7e. The activities referred to in paragraph 7d shall be performed by an entity authorised by the President of UTK complying with the requirements referred to in Article 22a.6 and which has not been placed on the list which is referred to in Article 22a.1.3.

7f. A post-inspection report shall be prepared from the inspection which is referred to in paragraph 7d containing a description of the facts of the case, a description of any irregularities and post-inspection conclusions with determination of the date for rectification of irregularities.

7g. Further to the tasks referred to in paragraph 1a and 2, the President of UTK may request technical assistance from managers, railway undertakings, notified bodies, organizational units performing tasks referred to in Article 22g.1 and designated bodies.

8. By way of a regulation the Council of Ministers shall define the manner of an inspection performed by the President of UTK under his supervision, having regard to the efficiency of inspections and proper use of its results.

Article 13a. 1. The provisions of the Code of Administrative Procedures shall apply to the proceedings held before the President of UTK subject to Article 13ab, Article 13b.2 and Article 13b.3.

2. If an application to the President of UTK is submitted electronically, and a document which the requesting party has in a hard copy only must be enclosed with the application an electronic copy of such document may be appended with the application.

3. In the event that is referred to in paragraph 2:

- 1) the requesting party shall be obliged to keep an original of the document in a hard copy on the basis of which an electronic copy of the document referred to in paragraph 2 has been produced;
- 2) The President of UTK may call upon the requesting party to produce the original as a hard copy if there are doubts relating to the received electronic copy of the document.

Art. 13aa The President of UTK, upon an application or ex officio, may, by means of a ruling, to the extent necessary, restrict the right to inspect the evidence enclosed to the files of the case, if the disclosure of the evidence would threaten the disclosure of a business secret, as well as other secrets protected under separate provisions.

2. The limitation referred to in paragraph 1 shall also apply to information obtained from regulatory authorities of other Member States of the European Union and from the European Commission in the framework of the consultations referred to in Article 13 paragraph 3a.1a or the cooperation referred to in Article 15a.

3. An appeal may be lodged against an order under paragraph 1.

4. A request for restriction of the right of access to evidence shall be accompanied by and a version of the document not containing the information subject to restriction referred to in paragraph 1, duly annotated.

5. If the application does not fulfil the requirements specified in paragraph 4, the President of UTK summons the applicant to supplement it within the specified time limit. If the application is not supplemented within the specified time limit, it is left unprocessed.

6. The parties and interested entities shall be given access to evidence which does not contain information subject to the limitation referred to in paragraph 1, duly noted.

Article 13ab Matters concerning:

- 1) a single safety certificate,
- 2) authorisations to place a railway vehicle on the market or authorisations for a type of vehicle,
- 3) the approval of the technical solutions envisaged for the ERTMS trackside equipment – are conducted through a one-stop shop.

2. Applications in the cases referred to in paragraph 1, together with the required documentation, shall be submitted by the applicant or their appointed representative. In the case of an authorised representative, the application shall be accompanied by a copy of a power of attorney authorising him or her to carry out, through the one-stop shop, all activities relating to the case.

3. Applications do not require a qualified electronic signature.
4. The required documentation shall be submitted in electronic form.
5. In matters referred to in paragraph 1, correspondence, including requests for completion or clarification, notifications and service, shall be effected through a one-stop shop.
6. The applicant or their designated representative shall have the right to acquaint themselves with the case file through a one-stop shop at any stage of the case. This right shall also apply after the case is closed during the period of archiving of its documentation.
7. In the case of matters referred to in paragraph 1, a time limit for the performance of a particular act shall be deemed to have been complied with if the correspondence has been transmitted via the one-stop shop before the expiry of the time limit.
8. Decisions in the cases referred to in paragraph 1 shall be served through a one-stop shop.
9. Within one month of the date of delivery of the decision referred to in paragraph 8, the applicant may request, via a one-stop shop, that the case be reconsidered. The provisions of paragraphs 2-8 shall apply to the application for reconsideration of the case.
10. A request for reconsideration shall be dealt with within 2 months of the date of its submission via a one-stop shop.
11. The provisions of the Administrative Procedure Code do not apply to opinions issued by the President of UTK on matters referred to in paragraph 1 and addressed to the Agency.

Article 13ac. The President of UTK shall control personal data within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 04.05.2016, p. 1, as amended), hereinafter referred to as "Regulation 2016/679", processed through the one-stop shop, obtained in the course of carrying out the matters referred to in Article 13ab.1, as well as within the framework of cooperation with the Agency in this regard.

Article 13b. 1. If violation of regulations, decisions, or orders relating to railway business has been established, the President of UTK shall issue a decision determining the scope of violation and the date of rectification of irregularities.

2. Decisions issued by the President of UTK, in principle, deciding about the matters referred to in Article 29e.3, Article 30d.3, Article 33.15, and Article 66.1, Article 66.2, Article 66.2aa and Article 66.3 shall be appealed to the District Court in Warsaw - Court of Protection of Competition and Consumers, within 14 days from the decision delivery.

3. The provision of paragraph 2 shall be applied accordingly to the provisions issued by the President of UTK in matters referred to in Article 29e.3, Article 30d.3, Article 33.15, and Article 66.1– 2aa, Article 66.3 the appeal against which is entitled, provided that the appeal shall be made within 7 days from the decision delivery date.

4. The proceedings into the appeal against a decision or a complaint against a decision of the President of UTK which are referred to in paragraph 2 and 3 shall be carried out pursuant the provisions of the Act on the Code of Civil Procedure of 17 November 1964 (Journal of Laws of 2020, item 1575 as amended) concerning proceedings into cases relating to the regulations of railway transport.

Article 13c. 1. As concerns regulations of railway transport, the President of UTK shall issue decisions, upon request or ex officio, which, in whole or in part, may be immediately enforceable, if a public interest or an exceptionally important interest of a party so requires. An appeal shall stop enforcement of a decision only in the event whereby its forthwith enforcement may bring irreversible or explicitly excessive damage to an appealing party.

2. Publicly accessible versions of decisions concerning regulations of railway transport shall be published in the Official Journal of the President of the Office of Rail Transport. Publicly accessible versions do not contain information which is covered by confidential business information or which constitutes other legally protected secret.

Article 14. 1. By way of a decision, the President of UTK shall order rectification of irregularities within a prescribed period in the event of violation of regulations concerning obligations of managers, railway undertakings and users of railway side-tracks in terms of railway transport safety, in particular:

- 1) rules of railway traffic management and signalling which are referred to in Article 17.7;
- 2) technical conditions of railway vehicle operation specified in Article 20, including validity of certificates of worthiness referred to in Article 24, and documents which should be found in a railway vehicle which is in request, as specified in Article 25;
- 3) conditions which train drivers should comply with, as well as persons employed in positions directly relating to the performance and safety of railway traffic operations and operating certain types of railway vehicles referred to in Article 22 to Article 22d.

4) (repealed)

2. By way of a decision, the President of UTK:

- 1) having established that further operation of the railway infrastructure involves a material risk for the safety of railway traffic or the safety of transport services of passengers or

goods shall immediately suspend railway traffic or shall introduce limits on a railroad which is exposed to risk;

2) shall withdraw a railway vehicle from operation or limit its operation, in the event whereby:

a) it has not been placed in service in accordance with the provisions of the Act, or

b) its continued operation poses a significant risk to the safety of rail traffic or the carriage of persons or goods.

2a. Where the President of UTK, as a result of supervisory activities carried out in accordance with Annex I to Commission Delegated Regulation (EU) 2018/761 of 16 February 2018 establishing common safety methods for the supervision by national safety authorities safety following the award of a single safety certificate or a safety authorisation under Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EU) No 1077/2012 (OJ L 129, 25.05.2018, p. 16, as amended), ascertains a serious threat to the safety of railway traffic, it shall introduce, by way of a decision, temporary safety measures including suspension or limitation of operations of a railway undertaking holding a single safety certificate.

2b. President of UTK informs the Agency about introduction of provisional safety measures against railway undertaking holding a single safety certificate issued by the Agency within 7 days from the day of its introduction. To the information, the President of UTK shall attach evidence justifying his decision.

2c. When the Agency requests the President of UTK to withdraw or modify a temporary safety measure that has been introduced, the Agency and the President of UTK shall cooperate in order to find a mutually acceptable solution.

2d. Where justified, a railway undertaking shall be included in the cooperation referred to in paragraph 2c.

2e. If the Agency and the President of UTK fail to reach an agreement in case referred to in paragraph 2c, the decision of the President of the UTK to impose temporary safety measures shall remain in force.

3. The decisions of the President of UTK referred to in paragraph 2 and 2a shall be subject to immediate enforcement.

4. (repealed)

5. (repealed)

6. (repealed)

7. (repealed)

Article 14a. 1 (repealed)

2. (repealed)

3. (repealed)

4. (repealed)

5. The passenger shall append the complaint referred to in Article 13.3c.4 with the following documents:

- 1) a copy of the complaint or grievance sent to a railway undertaking, a passenger station operator, a platform manager, a ticket vendor, a tour operator, or a tourist agent within the meaning of the Act on Tourist Services of 29 August 1997 (Journal of Laws of 2020, item 2139 and of 2021, item 1641);
- 2) a response of an entity referred to in paragraph 1 to the complaint or grievance, if it has been given;
- 3) a ticket for a given route, and in the case of an electronic ticket – data which allows identifying the terms and conditions of a transport services agreement, in particular, the ticket number, the date and time of a transport service, and a train type or booking confirmation;
- 4) other material documents confirming violation of passengers' rights in railway traffic.

5a. A passenger may enclose with the complaint an application for commencement of proceedings before the Adviser referred to in Article 16a, to the extent and in the manner specified in Chapter 3a. In such case, the President of UTK shall provide the Adviser referred to in Article 16a with the case documentation to the extent necessary for application review.

6. (repealed)

Article 14aa. 1. In case of stating the violation of railway regulations by a railway undertaking, a manager, a user of railway siding, a metro infrastructure manager and operator, a manufacturer or their authorized representative, a notified body, an entity in charge of maintenance, a modernization contractor, an importer, an investor or keeper, the President of UTK may send to this entity a written warning.

2. The warning referred to in paragraph 1 shall include:

- 1) description and nature of the infringement;
- 2) an indication of the provision which has been infringed;
- 3) a time limit for replying on the action taken or to be taken to remedy the infringement

identified, together with a schedule for such action.

3. The entity referred to in paragraph 1, to which the President of UTK issued a warning, is obliged to give information on actions taken or planned to be taken in order to remove the infringement identified, together with their schedule, within the period indicated in the warning.

Article 14b. 1. It is prohibited to use illegal practices which violate collective interests of passengers in railway transport, especially those violating the provisions of the Act of 15 November 1984 on Transport Law (Journal of Laws of 2020, item 8) regarding the requirement of publicly announcing a timetable for transporting passengers, tariffs, and pricelists, performance of transport services, including an obligation of providing passengers with appropriate safety and hygiene conditions and using means of transport appropriate for a specific rail service.

2. (repealed)

3. The provision in paragraph 1 does not violate the provisions of Regulation No 1371/2007/EC.

Article 15. 1. The President of UTK and persons authorised by him in writing:

- 1) shall have the right to enter a railway area and railway side-tracks and the premises related to railway traffic management and safety and railway vehicles with a full right of taking a ride on trains and railway vehicles;
- 2) may request written and oral explanations, presentation of documents, provision of information and any data related to the subject of inspection;
- 3) while inspecting the products made available on the market or which have been marketed shall have the right to perform an inspection in accordance with:
 - a) Chapter 7 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems – in the event of inspections referred to in Article 10.3a,
 - b) (repealed)

1a. The activities which involve exercising the rights referred to in paragraph 1.1 and 1.2 shall be performed as inspections referred to in the regulations issued on the basis of Article 13.8.

1b. The powers referred to in paragraph 1.1 and 1.2 shall also be vested in the Agency's staff in connection with the performance of the tasks referred to in Article 14 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the

European Union Agency for Railways and repealing Regulation (EC) No 881/2004/2016.

2. Inspections of business operations of an entrepreneur shall be governed by the provisions of Chapter 5 of the Act of 2 July 2004 on Freedom of Economic Activity (Journal of Laws of 2021, item 162).

3. Submitting of a request referred to in Article 18.1 of Regulation 2016/679 by the data subject shall not affect the course of checks carried out by the President of the UTK or the authority's power to impose a penalty.

Article 15a. 1. As regards railway transport regulations, the President of UTK shall cooperate with regulatory bodies from other Member States of the European Union, including a network established pursuant to Article 57.1 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012, p. 32), especially in terms of:

- 1) exchange of information about their work and decision-making principles, in particular, on the problems of interpreting transposed Union railway law;
- 2) railway transport market monitoring tasks and handling complaints or conducting investigations;
- 3) co-ordination of decision-making procedures;
- 4) issues related to international rail transport services;
- 5) development of common principles and practices which concern solving cases;
- 6) review of decisions and practices of organisations associating managers;
- 7) provision of information obtained for the purposes relating to regulations, inspections, and railway transport market monitoring.

2. The President of UTK shall provide regulatory bodies from other Members States of the European Union information for which they apply, subject to a possibility of using it only for the purpose of reviewing a complaint or conducting an investigation referred to in Article 13.3d.

3. If the President of UTK receives a complaint or when a case is investigated ex officio, and if the case also concerns a regulatory body from another Member State of the European Union, he shall provide it with relevant information for the purpose of undertaking actions by such body that involve the interested parties.

4. The President of UTK may request the European Commission to participate in actions which concern routes of international trains to facilitate co-operation of relevant regulatory bodies.

5. In case, when the President of UTK conducts the proceedings concerning international rail transport services, in which it is necessary to issue the decision also by regulatory body from other member state of the European Union, the President of UTK cooperates with this body, particularly requests this body to provide information necessary to issue the decision deciding about given case.

Art. 15aa. In the area of safety, interoperability and supervision the President of UTK cooperates with national safety authorities from other Member States of the European Union, particularly in:

- 1) coordination of supervisory activities concerning a railway undertaking which area of activity is in the territory of the Republic of Poland and in the territory of other Member States of the European Union, in order to eliminate overlapping of supervisory activities while ensuring a sufficient level of supervision;
- 2) exchange information on the railway undertakings referred to in paragraph 1, in particular on known risks, the application of measures to control those risks, the supervisory activities undertaken and the safety performance achieved;
- 3) issuing, renewing, updating, limiting and revoking safety authorisations in relation to cross-border infrastructures and coordinating supervisory activities in the framework of ensuring compatibility of subsystems "infrastructure", "energy" and "control-command and signalling" with the essential requirements of the rail system;
- 4) assessing applications for a single security certificate for the possibility of conducting traffic to border stations located in neighbouring Member States of the European Union;
- 5) harmonisation of decision-making rules.

2. The President of UTK may prepare with national safety authorities from other Member States of the European Union a joint oversight plan to ensure that inspections are carried out periodically taking into account the type and extent of activities in each Member State concerned.

3. The President of UTK may conclude with national safety authorities from other Member States of the European Union agreements defining principles of cooperation referred to in paragraph 1 and 2.

4. The President of UTK shall participate in the work of the Network of National Safety Authorities referred to in Article 38 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

Art. 15ab. 1. The President of UTK cooperates with the Agency in particular within the scope of:

- 1) issuing, renewing, updating, restricting and revoking single safety certificates;
- 2) issuing, renewing, modifying and revoking authorisation for placing a railway vehicle on the market or authorisation for a type of vehicle;
- 3) approval of the technical solutions envisaged for the ERTMS trackside equipment;
- 4) exchange of information on the supervision of railway undertakings holding single safety certificates issued by the Agency;
- 5) monitoring the development of railway safety;
- 6) coordination of supervisory activities concerning a railway undertaking which has its area of activity in the territory of the Republic of Poland and in the territory of other Member States of the European Union.

2. The President of UTK shall conclude with the Agency an agreement referred to in Article 76 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

Article 15b. 1. The President of UTK shall publish in the Bulletin of the Office of Rail Transport by 31st July every year a report on operations of the railway transport market for the previous year.

2. By 31st August the President of UTK shall publish every year a report in the Bulletin of the Office of Rail Transport on operations of the safety conditions of railway transport for the previous year.

3. The President of UTK shall submit to the European Commission data which is referred to in Article 3.1 of Commission Implementing Regulation (EU) No 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 09.07.2015, p. 1).

Article 16. 1. Activities performed by the President of UTK which has been specified in Article 13.1a.1–3, 3b and 5 and in paragraph 2.1–3a, 7 and 8–9 shall be paid for.

2. The amount of fees referred to in paragraph 1 for:

- 1) submitting an application on matters concerning:
 - a) safety authorisation, single safety certificate, safety attestation, certificate of entity in charge of maintenance of railway vehicle (ECM) and certificate for maintenance

functions, referred to in Article 23j.3.2 – 4 shall not exceed PLN 20 000,

- b) safety authorisation or single safety certificate, in which compliance with Annex II to Regulation (EU) No 2019/779 is also confirmed - shall not be higher than PLN 40,000,
- c) type approval certificate - shall not exceed PLN 20 000,
- d) the maximum amount of the licence shall be no more than PLN 150,
- e) authorisations for the placing in service of the structural subsystems 'infrastructure', 'energy' and 'control-command - track side equipment", permits for placing a railway vehicle on the market or permits for the type of vehicle and temporary permits for the use of a railway vehicle for testing on the railway network, on which the railway vehicle is to be used - shall not be higher than PLN 15,000,
- f) European Vehicle Number (EVN) - cannot be higher than PLN 100,
- g) the maximum amount of the costs of issuing the decision referred to in Article 25f, paragraph 6 shall not exceed PLN 10 000,
- h) authorising an entity responsible for authorising the conformity assessment body seeking notification, designating an applicant to carry out the tasks of the designated body and extending the scope of activities of the designated body shall not exceed PLN 10 000,
- i) conducting examination for train driving licence or examination for train driving certificate - cannot be higher than the equivalent of 20% of the average monthly salary in the first quarter of the previous year, published in the Official Journal of the Republic of Poland "Monitor Polski" by the President of the Central Statistical Office on the basis of Article 20 point 1 of the Act of 17 December 1998 2007 on pensions from the Social Insurance Fund (Journal of Laws of 2021, item 291, 353, 794 and 1621);

2) exercising supervision over:

- 1) training centres,
- 2) bodies authorised to carry out medical and psychological examinations and assessments to check that the medical, physical and psychological requirements for obtaining and maintaining a train driving licence and train driving certificate are met – shall not be higher than PLN 10 000.

3. The minister competent for transport, in consultation with the minister competent for public finance, shall determine, by way of a regulation, detailed activities for a given type of

case for which fees referred to in paragraph 1 are collected, the amount of such fees, as well as the manner of their payment and collection, taking into account the average workload in performing detailed activities for a given type of case, the necessity of uniform procedure in collecting and paying the fees and maintaining competitiveness of railway transport.

4. The cost of the activities of the President of UTK referred to in Article 18ba.1 and Article 23b.6, the cost of issuing the opinion referred to in Article 25ea.3.4, are reimbursed by the Agency in accordance with the principles set out in the agreement referred to in Article 76 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004/2016.

5. The proceeds of the fees referred to in paragraph 1 and of the refund referred to in paragraph 4 shall constitute revenue for the State budget.

Chapter 3a

The Rail Passenger Rights Ombudsman and Out-of-Court Consumer Disputes Resolution

Article 16a. The Rail Passenger Rights Ombudsman, hereinafter referred to as "the Ombudsman", acts at the President's of UTK. He conducts out-of-court proceedings on resolution of consumer disputes in cases concerning contractual obligations, including those of a ticket vendor or a tour operator, towards a passenger arising from contracts for transport of persons, goods or animals in railway transport and in cases concerning services provided to passengers by a railway undertaking, an infrastructure manager, a station owner or a station manager, hereinafter referred to as "passenger disputes".

Article 16b. 1. Matters that have not been provided for herein shall be governed by the provisions of the Act on out-of-court consumer dispute resolution of 23 September 2016 (Journal of Laws, item 1823), except that a dispute may be conducted between entrepreneurs.

2. In conducting the proceedings, the Ombudsman shall submit to the parties a proposal for passenger dispute resolution.

3. Within 7 days from the date of the proposal for passenger dispute resolution, the parties shall decide whether to accept or comply with the presented proposal.

Article 16c. The Ombudsman is an entity authorised to conduct out-of-court proceedings on resolution of consumer disputes within the meaning of the Act of 23 September 2016 on Out-of-Court Consumer Dispute Resolution.

Article 16d. 1. The Ombudsman is appointed by the President of UTK for a five year term of office from among persons who:

- 1) enjoy full civil rights;
- 2) have not been sentenced by a final court judgement for an intentional offence or for an intentional fiscal offence, nor has been disqualified from holding managerial positions or performing functions related to special responsibility in state authorities;
- 3) hold a master's degree or an equivalent professional degree;
- 4) have a command of at least one foreign language out of the working languages of the European Union;
- 5) have a good reputation;
- 6) are not members of political parties.

2. The Office of Rail Transport shall provide organisational support for the Ombudsman.

3. The Ombudsman may not:

- 1) be a member of management boards, supervisory boards, or audit committees of entities referred to in Article 16a;
- 2) be employed or perform other activities in the entities referred to in Article 16a that would result in suspicion of his/her partiality or mercenary interest;
- 3) hold in any of the entities referred to in Art. 16a more than 10% of shares representing more than 10% of the share capital.

4. The President of UTK shall recall the Ombudsman before the expiry of the term of office for which he/she has been appointed in the event of:

- 1) gross violation of law in the performance of his/her function;
- 2) illness that permanently prevents performance of tasks;
- 3) loss of qualifications or failure to satisfy the conditions referred to in paragraph 1 and 3;
- 4) resignation.

5. Upon expiry of the term of office, the Ombudsman shall perform his/her function until his/her successor has been appointed.

Article 16e. 1. Proceedings before the Ombudsman shall commence upon a passenger's request.

2. The prerequisite for a request to initiate proceedings before the Ombudsman is that the passenger has attempted to contact a railway undertaking, railway infrastructure manager, station owner or station manager, ticket vendor or tour operator and directly resolve a passenger dispute, including through a complaint procedure.

3. The request to commence proceedings before the Ombudsman shall contain at least the elements which have been specified in Article 33 (2) of the Act of 23 September 2016 on Out-of-Court Consumer Dispute Resolution, except that the applicant may request that the parties be presented with a proposal for passenger dispute resolution.

4. The request to commence proceedings before the Ombudsman shall be accompanied by a description of the circumstances of the case, information on the course of the passenger dispute, and photocopies of documents held by the applicant confirming the information included in the request.

5. Proceedings before the Ombudsman shall be free of charge for the passenger.

6. The Ombudsman shall refuse to review a passenger dispute in the event when:

- 1) a subject of the passenger dispute falls outside the categories of disputes within the Ombudsman's competence;
- 2) the applicant has failed to contact the other party and directly resolve the passenger dispute before submitting the request to commence proceedings;
- 3) the passenger dispute is of a minor nature or the request to commence the proceedings before the Ombudsman would result in inconvenience for the other party;
- 4) the case involving the same claim between the same parties is pending or has already been decided by the Ombudsman, another competent entity, or court;
- 5) the value of an subject of the passenger dispute is higher or lower than the financial thresholds defined in implementing legislation issued on the basis of Article 16g;
- 6) the applicant has filed a request to commence proceedings after a year from the date on which he/she made an attempt to contact the other party and resolve the passenger dispute directly;
- 7) handling of the passenger dispute would seriously interfere with the Ombudsman's tasks.

Article 16f. 1. The Ombudsman shall perform his/her tasks with the help of a team.

2. The Ombudsman shall authorise in writing a team member referred to in paragraph 1 to conduct out-of-court proceedings on resolution of consumer disputes. The authorised member of the team shall be a person conducting proceedings within the meaning of the act on out-of-

court consumer dispute resolution of 23 September 2016. Authorisation shall be granted for a specified period of time.

3. The Ombudsman shall revoke the authorisation of the team member referred to in paragraph 1 before expiry of the period for which it has been granted in the event of:

- 1) gross violation of the law during performance of the duties;
- 2) a final sentence for an intentional offence or a fiscal offence committed;
- 3) illness that permanently prevents performance of tasks;
- 4) resignation.

Article 16g. The minister in charge of transport shall specify, by regulation:

- 1) institutional organisation of the Ombudsman,
 - 2) the manner and forms of conducting out-of-court proceedings on resolution of consumer disputes, including the manner of submitting requests to commence proceedings and the exchange of information between the parties to the proceedings by means of electronic communication or mail,
 - 3) the detailed content of the request to commence the out-of-court proceedings on resolution of consumer disputes and the necessary documents to be attached to the request,
 - 4) the amount of financial thresholds of the value of the subject of a dispute, exceeding of which entitles the Ombudsman to refuse the examination of the passenger dispute ,
 - 5) the specific qualifications of persons conducting out-of-court proceedings on resolution of consumer disputes and the minimum time for which the authorisation is granted
- having regard to a necessity of ensuring easy access to proceedings, effective resolution of disputes and impartial and independent conduct of proceedings.

Chapter 4

Safety of Railway Transport

Article 17. 1. Managers, railway undertakings, railway siding users, and entrepreneurs managing the infrastructure and performing transport services in the Metros shall be obliged to comply with technical and organisational conditions that ensure:

- 1) safe management of railway traffic;
- 2) safe operation of railway vehicles;
- 3) fire protection and the environmental protection.

1a. (repealed)

1b. Railway managers, undertakings, railway siding users, and entrepreneurs managing the infrastructure and performing transport services in the Metros shall be obliged to develop internal regulations to the extent specified in the Act to satisfy the conditions referred to in paragraph 1.

1ba. Railway managers and operators shall ensure that safety is maintained and shall endeavour to continuously improve safety of the Union rail system, taking into account developments in the European Union law, international regulations, technical and scientific progress and supervision over risks related to their activities, in particular by:

- 1) the implementation of risk evaluation and assessment methods, in accordance with the provisions of Commission Implementing Regulation (EU) No 402/2013 of 30 April 2013 on common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009 (OJ L 121, 03.05.2013, p. 8, as amended), hereinafter "Regulation 402/2013", in cooperation with each other and other entities;
- 2) compliance with the European Union and national legislation on railway safety;
- 3) establishment and application of the safety management system;
- 4) applying a systemic approach to developing and improving safety;
- 5) prioritising accident prevention;
- 6) an obligation that the entities referred to in paragraph 1bb which have an impact on railway safety implement non-negligible risk control measures and use common safety methods (CSMs) for monitoring;
- 7) taking corrective measures, when a safety risk associated with flaws and non-conformity of design or malfunctions of technical equipment, including structural subsystems, has been detected or brought to its attention, with a view to eliminating the detected safety risks, and communicating these risks to all concerned.

1bb. Manufacturers, entities in charge of maintenance, suppliers of services, materials and components, keepers, ordering entities, consignors, receivers, shippers, loaders, unloaders and railway undertakings shall:

- 1) implement the necessary risk control measures, where appropriate with each other and with other actors;
- 2) ensure that the subsystems, accessories, equipment and services they supply comply with the requirements and conditions of use specified in the contracts and can be safely used;
- 3) take corrective measures, where a safety risk related to flaws and non-conformity of design or malfunctions of technical equipment, including those relating to structural subsystems,

is discovered or brought to its attention, with a view to eliminating the risks identified;

4) to inform the other entities concerned of the risks to safety referred to in point 3.

1c. In the event of a material risk for the safety of railway traffic or the safety of transport of persons or goods, a manager shall be obliged to undertake actions aimed at mitigating such risk, including suspension or limitation of railway traffic.

1d. Movement of trains shall be permitted on railway lines only.

1e. In the case of exchange of wagons between railway undertakings, each entity involved shall provide information relevant for the safe operation of the wagons, including the condition and the maintenance history of the wagon, as well as elements of the maintenance file, information identifying the loading operations and the waybills.

2. (repealed)

3. (repealed)

4. (repealed)

5. (repealed)

6. (repealed)

7. By way of a regulation the minister competent for transport shall define general conditions of railway traffic management and signalling, taking into account an obligation of development of detailed internal regulations in that respect by railway managers, undertakings, and railway siding users.

Article 17a. 1. Infrastructure managers and railway undertakings shall develop safety management systems to ensure that the Union rail system, capable of meeting its common safety targets (CSTs), complies with the safety requirements set out in the technical specifications for interoperability, hereinafter referred to as "TSIs", by applying the common safety methods (CSMs), national safety rules and interoperability rules.

2. Managers and railway undertakings shall develop safety management systems which:

- 1) comply with the requirements set out in paragraph 1 adapted to the nature, scope, field of operation and other conditions of the pursued operation;
- 2) define the distribution of responsibilities within the organisational structure for the processes to be carried out under the safety management system;
- 3) indicate how management ensures control at different levels of the organisational structure and involvement of employees and their representatives in this control;
- 4) describe how continuous improvement of the safety management system is ensured;
- 5) ensure oversight of all risks associated with the business, including those of

subcontractors, suppliers of materials and services, societal risks and the risks of other parties;

- 6) include any other elements than those listed in points 1 to 5 necessary to mitigate safety risks, as identified in the risk assessment of their own activities;
- 7) determine the need to implement necessary risk control measures;
- 8) ensure that other entities with a potential impact on the safety of the Union rail system are informed of the risk control measures that need to be implemented;
- 9) shall be continuously developed in order to coordinate the emergency procedures of the manager with all railway undertakings operating on the relevant infrastructure and with the emergency services and other actors who might be involved in an emergency situation.

3. The basic elements of the safety management system are:

- 1) a safety policy approved by a railway manager or railway undertaking and communicated to all persons employed;
- 2) procedures for reaching the existing, new and amended technical and operational standards or other conditions laid down in the TSIs, in the relevant national technical specifications and in the standardisation documents, the application of which enables the essential requirements of the rail system to be met, or in the decisions of the authorities;
- 3) procedures for ensuring conformity with standards and other conditions for railway vehicles throughout their lifecycle and for subsystems or interoperability constituents during their period in service;
- 4) staff training programmes, including physical and mental health arrangements, to ensure that the competence of staff is maintained and that tasks are carried out accordingly;
- 5) arrangements to ensure adequate access to information within the organisation and to enable the exchange of information between organisations operating within the rail system;
- 6) procedures and methods for identifying risks, conducting risk assessments and applying risk control measures, where a change in the operating conditions or the introduction of a new material imposes new risks on the infrastructure or on the man-machine-organisational interface;
- 7) procedures and templates for documentation of safety-related information and designation of a procedure establishing how important safety-related information is to be managed;
- 8) procedures to ensure that accidents and incidents, other dangerous occurrences and accidents avoided are reported, investigated and analysed and that the necessary preventive measures are taken;

- 9) adopted emergency action, alert and information plans agreed with the President of UTK;
- 10) quantitative and qualitative targets of an organisation for the maintenance and enhancement of safety, and plans and procedures for reaching these targets;
- 11) provisions for periodic internal audits of safety management systems.

4. Infrastructure managers and railway undertakings shall define in their internal safety management systems the timing, as well as the form of communication to persons employed in the organisation of the list of the assessments of the significance of the change and of the risk management processes performed, in accordance with the procedure set out in Annex I to Regulation 402/2013, as far as the responsibilities of persons employed and working conditions and safety are concerned.

5. The safety management system of the manager shall take into account the effects of operations by different railway undertakings on the network and ensure that all railway undertakings can operate in accordance with TSIs, national rules and the conditions of their single safety certificate.

6. Safety management systems shall be based on the requirements set out in:

- 1) Annex I to Commission Delegated Regulation (EU) 2018/762 of 8 March 2018 establishing common safety methods for assessing safety in relation to requirements for a safety management system under Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulations (EU) No 1158/2010 and (EU) No 1169/2010 (OJ L 129, 25.05.2018, p. 26, as amended 99)), hereinafter "Regulation (EU) 2018/762" - in relation to railway undertakings;
- 2) Annex II of Regulation (EU) 2018/762 - for managers.

Article 17aa. Following a serious accident, the railway undertaking shall provide assistance to families of persons killed in the accident and persons seriously injured on board trains operated by the railway undertaking and to their families by providing information on:

- 1) redress procedures under the European Union law;
- 2) the possibility of psychological counselling at the railway undertaking's expense.

Article 17ab. 1. Managers and railway undertakings shall submit to the President of UTK annually, by May31, safety reports for the previous calendar year.

2. The safety reports referred to in paragraph 1 shall include:

- 1) information concerning the fulfilment of the internal safety objectives and the implementation of the national safety plan setting out the actions envisaged to achieve the common safety targets (CSTs);

- 2) the presentation of the implementation of the Common Safety Indicators (CSI);
- 3) observed anomalies and conclusions associated with railway operation and infrastructure management, including summaries of the information received under Article 1bb.4.17;
- 4) the results of internal safety audits;
- 5) a report on the application of the relevant common safety methods (CSMs).

3. The President of UTK shall prepare an annual report on safety containing:

1) information on:

- a) the state of railway safety, including the achievement of Common Safety Indicators (CSIs) at national level and the implementation of the national safety plan setting out the actions foreseen to meet Common Safety Targets (CSTs),
 - b) the development of railway safety legislation,
 - c) single safety certificates and safety authorisations issued,
 - d) certificates for entities in charge of railway vehicle maintenance (ECM),
 - e) activities carried out in the preceding year,
 - f) railway undertakings carrying out tasks of the entities in charge of maintenance (ECM),
 - g) experiences of railway undertakings and managers in applying relevant CSMs;
- 2) conclusions from the supervision of managers and railway undertakings, including information on the number and results of checks and audits carried out;
- 3) a national safety plan setting out the actions envisaged to achieve the Common Safety Targets (CSTs).

4. The annual report, referred to in paragraph 3, shall be published by the President of UTK, by way of announcement, in the Official Journal of the President of the Office of Rail Transport and submitted to the Agency by 30 September of the year following the reporting period.

Art. 17ac. The minister competent for transport shall define, by regulation, the Common Safety Indicators (CSI) and the manner of their calculation and compilation, taking into account the need for uniform procedure for their calculation and compilation and increasing the level of railway safety.

Article 17b. (repealed)

Article 17c. Assessment bodies referred to in Article 3.14 of Regulation 402/2013 shall perform activities specified in the provisions of that Regulation on the basis of an accreditation

certificate issued in compliance with the Act on Conformity Assessment and Market Surveillance Systems of 13 April 2016.

Article 17d. 1. As a condition for operating a railway line, a railway infrastructure manager shall hold a safety authorisation for the elements of the railway infrastructure which it manages.

2. The condition referred to in paragraph 1 shall not apply to:

1) railways:

- a) narrow-gauge railways,
- b) functionally separated from the rest of the European Union rail system:
 - intended to provide regional or local transport services, or
 - entered in the register of historical monuments or in the inventory of museums,
- c) operated exclusively for recreational and occasional services,
- d) which are private infrastructure,
- e) having railway siding status;

2) metro lines.

3. Holding a safety attestation by the manager shall be a condition for operating a railway line referred to in paragraph 2.1.

4. The provision of paragraph 3 shall not apply to a manager that has a safety authorisation.

Article 17e. 1. Holding a single safety certificate shall be a condition for permitting an entrepreneur to use the railway infrastructure.

2. Entrepreneurs performing transport services on railway lines only, referred to in Article 17d.2.1 and on station tracks indicated by a manager to perform transport services executed through a connection with the railway infrastructure referred to in Article 17d.2.1.c–e shall be exempt from an obligation of obtaining a single safety certificate.

3. Obtaining a safety certificate by an entrepreneur shall be a condition for permitting such entrepreneur to use the railway infrastructure referred to in paragraph 2.

4. The provision of paragraph 3 shall not apply to an entrepreneur that has a single safety certificate.

5. (repealed)

6. (repealed)

Article 17f. Holding a safety attestation by an entrepreneur performing such functions shall be a condition for managing the infrastructure and performing transport services in the metro.

Article 18. 1. A train driver's licence and a train driver's certificate shall be the documents authorising a train driver to operate a railway vehicle.

2. Exempt from an obligation of obtaining a train driving licence and a train driver's certificate shall be those who operate:

- 1) railway vehicles on railroads referred to in Article 17e.2;
- 2) special vehicles which are not to be used for self-drives on operable railway tracks;
- 3) on metro lines.

Article 18a. 1. The President of UTK shall issue safety authorisation for a manager which manages railway infrastructure located in the territory of the Republic of Poland.

2. The President of UTK shall issue the safety authorisation referred to in paragraph 1 upon the request of the manager, after assessing the request in accordance with the requirements set out in Annex II to Regulation (EU) 2018/762.

3. The safety authorisation shall be issued for a period of 5 years and renewed every 5 years upon request by the manager.

3a. The President of UTK shall take a decision on applications for issuance, renewal and update of a safety authorisation within 4 months from the date of receiving a complete application.

3b. The President of UTK shall notify the Agency of any issuance, renewal, updating, limitation or revocation of a safety authorisation within 14 days from the date of the decision. The notification shall contain the name and address of the manager, the date of issue, the scope and validity of the safety authorisation and, in case of limitation or revocation, the reasons thereof.

3c. For the purpose of renewal of safety authorisation, the President of UTK shall use information obtained during supervisory activities.

4. When significant changes are made to the Infrastructure, Control-Command and Signalling Track-side or Energy subsystems, or to their operation or maintenance rules, the manager shall immediately inform the President of UTK.

5. Safety authorisation shall be updated by the President of UTK upon request of the manager in case of significant changes referred to in paragraph 4.

6. The President of UTK:

- 1) asks the manager to request an update of the safety authorisation - following a change in the safety regulations;
- 2) limit or revoke the safety authorisation, giving reasons, where it considers that the authorised manager does not meet the conditions for holding the safety authorisation.

Article 18b.

1. A railway undertaking shall submit an application for a single safety certificate to:

- 1) Agency or the President of UTK - if the planned area of operation includes only the territory of the Republic of Poland and border stations located in neighbouring Member States of the European Union;
- 2) Agency if the planned area of operation also includes other Member States of the European Union.

2. The manner of submitting the application referred to in paragraph 1 is specified in Article 4 of Commission Implementing Regulation (EU) 2018/763 of 9 April 2018 laying down practical arrangements for the issue of a single safety certificate to railway undertakings under Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation (EC) No 653/2007 (OJ L 129, 25.05.2018, p. 49, as amended).

3. The single safety certificate is issued for a period of up to 5 years.

4. The single safety certificate shall specify the type and extent of the operations it covers and the area of operations.

5. In case of railway undertakings operating transport services to border stations located in neighbouring EU Member States with similar network characteristics and applying similar operational rules, the single safety certificate issued by the President of UTK after consultations with relevant national safety authorities of neighbouring EU Member States shall be valid in this area without the necessity to expand the area of operation.

6. The arrangements referred to in paragraph 5 may be made separately for each case or included in a cross-border agreement between the Republic of Poland and neighbouring European Union Member States or in an agreement between the President of UTK and competent national safety authorities of these states.

7. A railway undertaking may use a single safety certificate for its sidings if these are included in the railway undertaking's safety management system.

Art. 18ba. 1. When an application for a single safety certificate has been submitted to the Agency, the President of UTK shall assess whether the submitted documentation meets the requirements specified in national safety regulations and shall forward the results of the assessment to the Agency.

2. In case when the Agency does not agree with the results of the assessment referred to in paragraph 1, the President of UTK and the Agency shall cooperate in order to find a common

position. In justified cases railway undertaking shall be involved in cooperation.

3. The President of UTK may submit a request for arbitration to the Board of Appeal referred to in Article 55 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004, in case of a negative assessment by the President of UTK and failure to reach a common position with the Agency.

Art. 18bb. 1. In case of submitting to the President of UTK an application for issuance of single safety certificate, the President of UTK shall, within one month from the date of receiving the application, notify the applicant that the documentation is complete or shall summon the applicant to remove the deficiencies.

2. The President of UTK shall take decision on applications for issuance of single safety certificates within 4 months respectively from the date of notification referred to in paragraph 1 or from the date of removing deficiencies by the applicant.

3. The President of UTK shall notify to the Agency each issue, renewal, update, limitation or revocation of a single safety certificate within 14 days from the date of the decision. The notification shall state the name and address of the railway undertaking, the date of issue, the scope and validity of the single safety certificate and, in case of revocation, the reasons thereof.

Art. 18bc. 1. On railway undertaking's application, President of UTK updates issued single safety certificate in whole or in part:

- 1) after any substantial change in the nature or scope of the activity;
- 2) when changing the area of activity in the territory of the Republic of Poland or with regard to border stations located in neighbouring Member States of the European Union;
- 3) in the event of changes to legislation on railway safety.

2. In the case of a change in the area of operation through an extension of the area of operation, the railway undertaking shall enclose to the application documentation for the additional area of operation.

3. Upon application by the railway undertaking, the President of UTK shall renew the single safety certificate issued by him for a period not exceeding 5 years.

4. The President of UTK shall use the information obtained in the course of its supervisory activities to renew single safety certificates.

5. The provisions of the Article 18b.2, Article 18b.4-5, Article 18ba and Article 18bb.1-2 shall be applied in the proceedings to renew or update a single safety certificate.

Art. 18bd. 1. Railway undertaking shall inform the President of UTK, at least two months

in advance, about planned start of transport services in the changed conditions regarding type and extent of operations.

2. Railway undertaking shall inform President of UTK about significant changes concerning professional category of employees or types of vehicles used within 7 days from the date of completion of process of assessment of significance of the change.

Art. 18be. 1. The President of UTK supervises application of safety management system by railway managers and railway undertakings referred to in Article 17a, taking into account principles of Common Safety Methods (CSM).

2. The supervision referred to in paragraph 1 shall include checks to verify the application:

- 1) the safety management system to monitor its effectiveness;
- 2) individual or parts of the safety management system, including operational activities, provision of maintenance services and material and employment of contractors to monitor their performance;
- 3) appropriate common safety methods (CSMs).

3. When carrying out supervision referred to in paragraph 1, the President of UTK shall use documentation collected during issuing, renewal or update of single safety certificate or safety authorisation and may also take into account safety performance of railway undertaking or infrastructure manager and, where applicable, training centres to the extent that their activities affect railway safety.

4. In the case of entities in charge of the maintenance of a railway vehicle (ECM), the supervision referred to in paragraph 1 shall be carried out in order to ensure that these entities apply the relevant common safety methods (CSM).

Art. 18bf 1. President of UTK applies to Agency for limitation or withdrawal of the single safety certificate issued by it, if the railway undertaking no longer meets conditions for holding the single safety certificate or if duration of a provisional safety measure imposed on railway undertaking on the basis of Article 14.2a exceeds 3 months.

2. In case when the Agency does not agree with the proposal of the President of UTK, referred to in paragraph 1, the provisions of Article 18ba.2-3 shall apply. If the single safety certificate is not limited or withdrawn, the President of UTK shall revoke the provisional safety measures.

3. The President of UTK shall limit or withdraw a single safety certificate issued by him, if he finds that the railway undertaking no longer meets the conditions for its issue.

Article 18c. The President of UTK shall publish in the Public Information Bulletin on the website of the Office of Rail Transport a guide for applicants on issuing, updating and renewing single safety certificates and safety authorisations, including a list of required documents to be submitted together with an application.

Article 18d. 1. Employees of railway undertakings seeking to obtain a single safety certificate shall be offered a possibility of participating in training for train drivers and train crews, and free and non-discriminating access to training facilities, if such training is a condition for obtaining a safety certificate.

2. Training shall include knowledge of train routes and procedures, a railway traffic control and signalling system and procedures in emergency situations.

3. Employees of the manager who perform material tasks concerning safety shall be provided with a possibility of participating in training and non-discriminating access to training facilities.

4. Training referred to in paragraph 1–3 shall be organised by railway undertakings and managers who are held responsible for the level of education and qualifications of employees performing work related to safety.

5. If a railway undertaking or a manager does not have conditions to organise training referred to in paragraph 1–3 or conduct examinations, they shall send an employee to another railway undertaking or manager on a paid-for basis. A fee for training or an examination shall be income of entities organising training or an examination.

6. The fee for training and an examination shall include only reasonable expenses and a small profit which does not exceed 10% of such expenses. The fee shall be determined on a non-discriminating basis.

7. A railway undertaking or a manager organising training or an examination shall issue a document to those interested confirming training completion and passing the examination.

8. The President of UTK shall exercise supervision over training and an examination in terms of the compliance concerning the safety requirements.

9. By employing new train drivers and train crews and other employees performing work relating to safety, railway undertakings and managers shall consider completed training, qualifications, and experience of job candidates that they have acquired before working for another railway undertaking or manager.

10. An employee of the railway undertaking or the manager shall have the right to receive photocopies of documents confirming their training, qualifications, and experience.

Article 18e. (repealed)

Article 18f. (repealed)

Article 19. 1. The President of UTK shall issue a safety attestation for a manager of the railway infrastructure referred to in Article 17d.2 other than a railway siding user, if it presents:

- 1) a list of types of operated railway vehicles, types of structures, and types of devices;
- 2) a list of internal regulations defining the rules and requirements concerning safe railway traffic management and railway infrastructure maintenance;
- 3) a statement confirming that in positions directly involving railway traffic management and safety it employs employees who meet the conditions specified in the Act and regulations issued on its basis;
- 4) in the event of operating own railway vehicles:
 - a) a statement on having valid certificates of worthiness of operated railway vehicles, a statement confirming that in positions directly involving operations of specific types of railway vehicles it employs employees who meet the conditions specified in this Act and regulations issued on its basis;
 - b) a statement certifying that, for the posts directly involved with driving specific types of railway vehicles it employs employees who meet the conditions specified in this Act and regulations issued on its basis.

2. The President of UTK shall issue a safety attestation for a railway undertaking, if it presents:

- 1) a list of operated types of railway vehicles;
- 2) (repealed)
- 3) statements referred to in paragraph 1.4;
- 4) a list of internal regulations specifying the technical conditions and the rules and requirements related to maintenance and operation of railway vehicles.
- 5) (repealed)

3. The President of UTK shall issue a safety attestation to a railway siding user, if it presents:

- 1) the documents referred to in paragraph 1.1 and 1.3;
- 2) a list of internal regulations specifying the conditions of railway traffic management and infrastructure maintenance on a railway siding, or a statement on application of the internal regulations of another manager;
- 3) in the event of operating own railway vehicles:

- a) a list of internal regulations specifying the organisational rules and requirements relating to maintenance and operation of railway vehicles or a statement on application of the internal regulations of a railway undertaking,
 - b) statements referred to in paragraph 1.4;
- 4) the working rules of a railway siding agreed by the manager of the railway infrastructure with which such railway siding is connected.

3a. The President of UTK shall issue a safety certificate authorising an entrepreneur to manage the infrastructure and perform rail transport services in the metro, if it presents:

- 1) the list referred to in paragraph 1.1;
- 2) a list of internal regulations specifying:
 - a) the detailed conditions of railway traffic management and maintenance and operation of the infrastructure, and also railway vehicles,
 - b) the conditions that employees performing actions in positions directly involving railway traffic management and safety and operation of railway vehicle shall comply with.

3b. An undertaking combining the functions of infrastructure manager referred to in Article 17d.2.1 and of railway carrier may obtain one safety attestation for both functions, if the requirements referred to in paragraphs 1 and 2 are jointly fulfilled.

4. By way of a regulation, the minister competent for transport shall define:

- 1) the conditions and procedure for issuing, renewing, updating, restricting and revoking a safety authorisation,
- 2) the conditions and procedure for issuing, renewing, amending and revoking safety attestations,
- 3) model of safety authorisation and safety attestation

– whereas uniform standards of procedure and documentation must be applied and safety in rail transport must be ensured, taking account of the recommendations of the European Commission.

Article 20. By way of a regulation, the minister competent for transport shall define the general technical conditions of operation of railway vehicles so that:

- 1) the conditions of railway traffic safety are satisfied;
- 2) they may be moved in sets of the same trains;
- 3) their movement on railway lines is technically possible.

Article 20a. By way of a regulation, upon request of the President of UTK, the minister competent for transport shall define the technical procedures of maintenance and operation for railway transport governing:

- 1) conduct of persons performing activities in individual positions involving railway traffic safety,
- 2) the manner in which specific devices, railway vehicles, or their elements are operated,
- 3) the manner of performance of certain activities necessary to ensure performance of rail transport services

– having regard to a need of ensuring uniform conditions for performing operations on the railway network of the Republic of Poland by railway undertakings and managers and to the safety aspects of railway transport.

Article 21. By way of a decision, upon request of a railway undertaking, a manager, or a railway side-track user, the minister competent for transport, in justified cases, may grant a permission to depart from the technical conditions of operation of railway vehicles and railway traffic management and signalling, after obtaining an opinion of the President of UTK.

Article 22. 1. The President of UTK shall be a competent authority to issue, extend, suspend, restore, and revoke a train driving licence and to update data included in a train driving licence, and to issue its duplicates.

2. A train driving licence may be obtained by a person who:

- 1) has not been convicted of an intentional crime by a final judgment;
- 2) is more than 18 years of age;
- 3) has completed at least basic vocational education or industry-specific vocational education;
- 4) meets the health, physical, and psychological requirements specified in the regulations issued on the basis of Article 22a.11.2;
- 5) has completed training for a train driver's licence;
- 6) passed an examination for a train driving licence no later than one month 24after completing the training referred to in point 5.

2a. Exempt from the obligation of completing training referred to in paragraph 2.5 shall be candidates for train drivers seeking to obtain a train driving licence, who:

- 1) have a vocational diploma, a diploma confirming professional qualifications, a certificate of professional qualifications, a certificate confirming qualifications in the occupation or another document confirming professional qualifications - in professions where the

curricula include issues related to construction of railway vehicles, railway traffic and railway signalling, or

- 2) have completed higher education studies in fields which involve the study of railway vehicle construction, rail traffic and signalling.

2b. Compliance with the condition referred to in paragraph 2.1 shall be evidenced by the declaration of the candidate train driver applying for a train driving licence under penalty of law for making false declarations. The statement shall include the paragraph: "I am aware of the criminal responsibility for making a false statement under Article 233 § 6 of the Act of 6 June 1997 – Penal Code". The paragraph replaces the authority's instruction on criminal liability for making false statements.

2c. A holder of a train driving licence shall be subjected to medical and psychological examinations and shall obtain a medical opinion confirming satisfaction of the health, physical, and psychological requirements specified in the regulations issued on the basis of Article 22a.11.2. In the event of failure to obtain the medical opinion, the train driving licence shall become null and void.

2d. The examinations referred to in paragraph 2c shall be conducted every:

- 1) 24 months – until the 55th year of age,
- 2) 12 months – after the 55th year of age,
– unless, a medical opinion indicates a shorter period.

2e. A train driver holding a valid medical opinion confirming satisfaction of the health, physical, and psychological requirements necessary for obtaining or maintaining the validity of a train driver's certificate, shall be exempt from the obligation referred to in paragraph 2c.

3. (repealed)

4. (repealed)

5. A train driving licence shall be issued by way of a decision for a period of 10 years, in accordance with a model specified in Annex I to 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 (OJ L 13 of 19.01.2010, p. 1), hereinafter “Regulation (EU) No 36/2010”. Following expiry of that period, by way of a decision, the President of UTK, upon request of the train driving licence holder shall extend it issuing a new document for another 10 years from the expiry date of the existing train driving licence, after prior checking the validity of the medical opinion confirming satisfaction of the

health, physical, and psychological requirements necessary to obtain or keep the train driving licence or the train driver's certificate valid.

6. By way of a decision, the President of UTK shall suspend a train driving licence of a person who has temporarily ceased to satisfy the conditions specified in paragraph 2.4.

6a. By way of a decision the President of UTK shall restore a train driving licence that has been suspended, if its holder has obtained the medical opinion which is referred to in paragraph 5.

7. By way of a decision the President of UTK shall revoke a train driving licence of a person who has ceased to satisfy the condition specified in paragraph 2.1 or has permanently ceased to satisfy the conditions specified in paragraph 2.4.

8. The decisions referred to in paragraph 6–7 and 12 shall be forthwith enforced by the President of UTK.

8a. A holder of the train driving licence shall be obliged to notify the President of UTK about loss of such document, its destruction to the extent that it has become illegible, and also about a change of the factual state of affairs requiring an update of data included in it within 30 days from the occurrence of such event.

9. In the cases referred to in paragraph 8a, the President of UTK, upon request, shall issue a copy of a train driving licence for a period remaining until the end of a validity period of the existing copy of a train driving licence, and shall issue a new train driving licence in the case of an update of data included in such document.

9a. A holder of the train driving licence who, following issuance of a copy of the train driving licence has recovered the lost document, shall be obliged to return that document to the President of UTK.

10. The suspension of a train driving licence, the revocation of a train driving licence or the update of data contained in the train driving licence shall be notified immediately by the President of UTK to the railway undertaking or the manager for whom the train driver provides services or work. The notification shall be made through the register referred to in Article 25x.1.

10a. Train driving licences obtained by persons over 18 years of age shall, until they reach the age of 20, be valid only in the territory of the Republic of Poland.

11. If a train driving licence has been issued by an authority of another Member State of the European Union, if it has been established that a train driver does not satisfy the conditions specified in paragraph 2, the President of UTK shall request such authority with a request to check or suspend a train driving licence. It shall notify the European Commission accordingly.

12. By way of a decision the President of UTK may issue a prohibition to operate a train or a railway vehicle within the territory of the Republic of Poland by a train driver referred to in paragraph 11 for a period during which a request is reviewed, if it is justified by reasons concerning railway traffic safety.

13. In the event of a request of an authority from another Member State of the European Union to check or suspend a train driving licence, the President of UTK shall review such request within 4 weeks from the receipt date. The President of UTK shall notify a relevant authority of such Member State and the European Commission about the outcome of such request.

14. Train driving licences issued in other Member States of the European Union to persons who are at least 20 year old shall be valid in the territory of the Republic of Poland.

15. In sections of railway lines covering border crossings with the states neighbouring with the Republic of Poland that are not Member States of the European Union, trains or railway vehicles shall be driven in accordance with international or bilateral agreements.

Article 22a. 1. The President of UTK shall maintain:

- 1) the register of train driving licences;
- 2) the register of training centres;
- 3) list of entities authorised to conduct medical and psychological examinations and to adjudicate to check whether health, physical, and psychological requirements necessary for obtaining a train driving licence and a train driver's certificate have been satisfied, and also to keep them valid;

1a. The President of UTK shall provide data collected in the register referred to in paragraph 1.1 upon request of:

- 1) the National Railway Accident Investigation Committee pursuant to Article 28h.2.4 and the railway committee referred to in Article 28m;
- 2) the Agency – to perform assessment of a process of granting licences to train drivers in the European Union;
- 3) a railway undertaking, a manager, or another entity a train driver has been employed or for whom it has provided services – to check the status of a train driving licence;
- 4) a relevant authority of another Member State of the European Union in terms relating to train drivers driving trains on the railway infrastructure of such Member State to:
 - a) inspect trains running within an area of its competence,
 - b) conduct proceedings relating to the compliance with the regulations of the European Union which concern granting licences to train drivers,

- c) conduct proceedings into a case of a serious accident, accident, or an incident;
- 5) another entity, if the obligation of provision of data is established under separate regulations.

2. The register referred to in paragraph 1.2 and the list referred to in paragraph 1.3 shall be public and made available in the Bulletin of Public Information at the said web site of the President of UTK.

3. A fee shall be charged for the activities of the President of UTK relating to an entry in the register referred to in paragraph 1.2 and an entry in the list referred to in paragraph 1.3 in the amount being a Polish zloty equivalent of EUR 200 determined using a mean exchange rate announced by the National Bank of Poland applicable on the date of entry. The fees shall be the state budget's income.

4. Running a training centre is regulated activity within the meaning of the provisions of the Act of 6 March 2018 – Entrepreneurs' Law.

4a. An entrepreneur conducting operations referred to in paragraph 4 shall be entered in the register referred to in paragraph 1.2.

4b. The obligation referred to in paragraph 4a also applies to an entrepreneur from another Member State of the European Union performing operations within the territory of the Republic of Poland which are referred to in paragraph 4, and who has been recognised by a relevant authority of another Member State of the European Union in accordance with the provisions of the European Commission concerning recognition of training centres running professional training for train drivers.

4c. The scope of activities performed by a training centre shall include:

- 1) training candidates for train drivers seeking to obtain a train driving licence with regard to general professional knowledge,
- 2) training candidates for train drivers seeking to obtain a train driver certificate with regard to general professional knowledge and skills concerning:
 - a) railway infrastructure,
 - b) railway vehicle,
- 3) conducting training and checking of knowledge and skills of train drivers, or
- 4) training and examining train drivers from other Member States of the European Union in terms of general language skills, rules of railway traffic, and signalling on the railway network of the Republic of Poland,
- 5) delegating an examiner to participate in the practical part of the examination for the train driver attestation referred to in Article 22bb.9.

5. The operations referred to in paragraph 4 may be performed by an entrepreneur:

- 1) (repealed)
- 2) against whom no liquidation proceedings have been opened or against whom no bankruptcy has been announced;
- 3) who has not been sentenced by a final judgement of an offence committed for financial gain or an offence against the credibility of documents - refers to a natural person, an incumbent member of a management or supervisory body, a partner in a general partnership or a partnership, a general partner in a limited partnership or a limited joint-stock partnership, and a proxy;
- 4) who has the facilities and didactic equipment to provide training and assessment of knowledge and skills;
- 5) who runs training pursuant to training curricula which are referred to in regulations issued on the basis of paragraph 11.6 and Article 22b.21.2, respectively;
- 5a) ensuring performance of:
 - a) training by instructors who:
 - satisfy the requirements concerning instructors as defined in the regulations issued on the basis of paragraph 11.10,
 - are entered in the list referred to in paragraph 8.1,
 - b) examiners who are registered in the register of examiners referred to in Article 22be.1, who have made a written declaration to act as examiners in an impartial and non-discriminatory way,
 - c) the involvement of examiners in the practical part of the examination for the train driver certificate referred to in Article 22bb.9;
- 5b) who enters in a timely manner the training and knowledge and skills tests conducted in the register referred to in Article 25x.1;
- 6) who satisfies the detailed requirements specified in the regulations issued on the basis of paragraph 11.9;
- 7) who has a set of the applicable regulations to the extent covered; by the training programme and knowledge and skills tests;
- 8) who is not in arrears with payment of tax liabilities, fees and social insurance contributions.

6. Medical and psychological examinations to check satisfaction of the health, physical, and psychological requirements necessary to obtain a train driving licence and a train driver certificate, and also to keep them valid, may be conducted by entities authorised to perform

occupational labour examinations and which are engaged in the performance railway medicine tasks.

7. The entry in the register referred to in paragraph 1.2, and also in the list referred to in paragraph 1.3 shall be made upon written request of an interested entity containing the following information:

- 1) business name of the entity;
- 2) indication of the registered office and the address or the place of residence and the entity's address;
- 3) entity's number in the relevant register;
- 4) tax identification number (NIP), if the entity has it;
- 5) scope of the activities referred to in paragraph 4c – in the event of the entry in the register referred to in paragraph 1.2.

8. Together with an application an entrepreneur seeking an entry in the register referred to in paragraph 1.2 shall submit:

- 1) a list containing names of instructors;
- 2) the declarations referred to in paragraph 5.5a.b;
- 3) a written statement reading as follows: “I hereby declare that:
 - 1) the data included in the application for an entry in the register of training centres is complete and true;
 - 2) I satisfy the conditions of performing business operations that relate to running a training and examination centre for train drivers and candidates for train drivers specified in the Act on Railway Transport of 28 March 2003”.

8a. The entrepreneur referred to in paragraph 4b shall be exempt from the obligation of submitting documents confirming satisfaction of the requirements specified in the regulations issued on the basis of paragraph 11.10 by instructors and examiners, if their satisfaction has been previously checked by a relevant authority of another Member State of the European Union, and they do not relate only to conducting training and examinations for the railway network of the Republic of Poland.

9. The statement referred to in paragraph 8.3 shall also define:

- 1) the business name of the entrepreneur, its registered office, and the address, and the address of residence;
- 2) indication of the place and date of the statement;
- 3) signature of a person authorised to represent the entrepreneur including the first name and the surname and the function.

9a. If an entrepreneur who operates a training centre submits a request to be added to the list referred to in paragraph 8.1, of instructors providing training at that training centre or to change the scope of the activities performed, paragraph 8.3, shall apply.

9b. By way of a decision, the President of UTK shall approve or disapprove the changes referred to in paragraph 9a.

9c. The President of UTK shall disapprove the changes referred to in paragraph 9a, if:

- 1) the entrepreneur operating a training centre did not submit, together with the application, a statement on meeting the requirements specified in the regulations issued pursuant to paragraph 11.9, necessary to conduct activity within the scope of activities covered by this application - applies to the application for a change in the scope of the activities performed;
- 2) a person to whom the request for entering in the list referred to in paragraph 8.1 refers does not meet any of the requirements specified in the regulations issued on the basis of paragraph 11.10.

10. By way of a decision, the President of UTK shall remove a training centre from the register referred to in paragraph 1.2, in the event:

- 1) specified in Article 71 of the Act of 2 July 2004 on Freedom of Economic Activity;
- 2) issuance of a final judgement prohibiting the entrepreneur to conduct such operations;
- 3) whereby liquidation or bankruptcy proceedings covering winding up of the bankrupt's assets have been completed against the entrepreneur.

10a. Gross breach of the conditions for operating a training centre is:

- 1) conducting the training in a manner inconsistent with the training programme;
- 2) the fact that a document certifying completion of training or passing a test of knowledge and skills has not been issued;
- 3) conducting a test of knowledge and skills by an examiner not entered in the register of examiners referred to in Article 22be.1;
- 4) the training is given by a person who is not on the list referred to in paragraph 8.1;
- 5) a valid conviction of an entrepreneur for an offence referred to in paragraph 5.3 applies to a natural person, an incumbent member of the management or supervisory body, a partner in a general partnership or partnership, a general partner in a limited partnership or a limited joint-stock partnership, and a proxy;
- 6) entering factually inaccurate information in the register referred to in Article 25x.1 of having completed a training course or having passed a knowledge and skills test.

10b. By way of a decision, the President of UTK shall remove an entity from the list referred to in paragraph 1.3 which has ceased to satisfy the requirements referred to in paragraph 6 or the detailed requirements specified in the regulations issued on the basis of paragraph 13.

11. By way of a regulation, the minister competent for transport shall define:

- 1) detailed conditions of issuing, extending, suspending, restoring, and revoking a train driving licence and updating data included in a train driving licence, and issuing its duplicates.
- 2) health, physical, and psychological requirements that persons seeking to obtain a train driving licence or to keep it valid should comply with;
- 3) the scope of medical and psychological examinations and the manner of assessing physical and psychological capabilities of persons seeking to obtain a train driving licence, or to keep it valid and the manner of issuing opinions on such capabilities;
- 4) models of the documents confirming physical and psychological capabilities of persons seeking to obtain a train driving licence or to keep it valid;
- 5) the scope of knowledge and skills covered by training necessary to obtain a train driving licence;
- 6) the curriculum and duration of training of candidates for train drivers seeking to obtain a train driving licence;
- 7) (repealed)
- 8) the manner of determining an identification number of a training centre that is entered in the register referred to in paragraph 1.2, the scope of data included in the register, and also the manner of paying fees for entry in the register;
- 9) the detailed requirements for entrepreneurs seeking entry in the register of training centres;
- 10) the qualification requirements for instructors working in a training centre, and also the types of documents confirming their qualifications and education;
- 11) the conditions, the manner of keeping the register of train driving licences, the scope of data included in it, and the period of its storage, the model of such register, and also the manner of transferring data included in the register to the entities referred to in paragraph 1a;
- 12) template of:
 - a) a request for issuing a train driving licence, its extension, issuing a copy, restoring such document and analysing data included in it,
 - b) a document confirming completion of training to obtain a train driving licence,
 - c) declaration referred to in paragraph 5.5a.b.

12. The minister competent for transport shall issue a regulation referred to in paragraph 11, having regard to:

- 1) the necessity of ensuring efficiency of the procedure of obtaining a train driving licence;
- 2) the necessity of taking into account a specific nature of the train driver's job while defining health requirements that persons seeking to obtain a train driving licence or to keep it valid should comply with;
- 3) the necessity of conducting examinations necessary for proper assessment of physical and psychological capabilities for operating railway vehicles;
- 4) ensuring efficiency of the procedure of issuing documents confirming physical and psychological capabilities of persons seeking to obtain a train driving licence or to keep it valid;
- 5) the scope of knowledge and skills necessary for safe operation of trains and railway vehicles;
- 6) the necessity of ensuring an appropriate number of training hours for candidates for train drivers seeking to obtain a train driving licence, ensuring learning facts, rules, processes, and general terms related to the work in a train driver's position;
- 7) (repealed)
- 8) recommendations of the European Commission concerning the procedure of assigning identification numbers of training centres;
- 9) regulations of the European Union concerning requirements that training centres should comply with;
- 10) the necessity of ensuring an appropriate merit-based level of training and examinations for candidates for train drivers seeking to obtain a train driving licence and of specifying additional requirements concerning the knowledge of the Polish language, the rules of railway traffic and signalling on the railway network of the Republic of Poland, for instructors and examiners from other Member States of the European Union conducting training and examinations on the railway network of the Republic of Poland;
- 11) regulations of the European Union concerning the register of train driving licences;
- 12) the need of standardising the issued documents and their protection against being forged or redone.

13. In consultations with the minister competent for health, by way of a regulation the minister competent for transport shall define detailed requirements for entities seeking their entry in the list of entities authorised to conduct medical and psychological examinations and to issue opinions to check satisfaction of the health, physical, and psychological requirements necessary

to obtain a train driving licence and a train driver's certificate, and also to keep them valid, the manner of making entries in the list and removing them from it, the scope of data included in the list, the model of a request for entry in the list, and also the manner of paying fees having regard to:

- 1) the necessity of ensuring proper qualifications of persons authorised to conduct examinations to check whether the health, physical, and psychological requirements necessary for obtaining a train driving licence and a train driver's certificate have been satisfied, and also to keep them valid;
- 2) the necessity of ensuring appropriate conditions for conducting such examinations;
- 3) clarity and transparency of the data included in the list.

Article 22aa. 1. The President of UTK shall ex officio rectify any entry in the register which contains obvious errors or discrepancies with the actual state of affairs.

2. In the event of a change in the data entered in the register, the entrepreneur shall be obliged to submit an application to amend the entry in the register within 14 days of the occurrence of the event that caused the change in the data.

3. The President of UTK shall ex officio issue a certificate of entry in the register.

Art. 22ab. 1. The President of UTK is obliged to make an entry of an entrepreneur to the register referred to in Article 22a.1.2, within 7 days from the day on which he receives a request for entry together with a statement on fulfilling the conditions required by the law to carry out an activity for which the register is kept.

2. If the President of the UTK does not make the entry within the period referred to in paragraph 1 and 14 days have passed from the date the application was submitted to this authority, the entrepreneur may start business activity. It does not refer to the case when the President of UTK called upon the entrepreneur to supplement the application for entry no later than within 7 days from the date of its receipt. In such a situation the time limit referred to in the first sentence shall run accordingly from the day the supplementation of the application for entry is received.

Art. 22ac. The President of UTK issues a decision banning an entrepreneur from performing a activity covered by the entry in the register referred to in Article 22a.1.2, when:

- 1) the entrepreneur has made a declaration referred to in point 3 of Article 22a.8 which is factually incorrect;
- 2) the entrepreneur has not remedied the breaches of conditions required by law to conduct a

regulated activity within the time limit set by the President of UTK;

- 3) ascertains a flagrant breach of the conditions required by law for the operation of a training centre by an entrepreneur.

2. The decision referred to in paragraph 1 shall be immediately enforceable.

Article 22ad. 1. An entrepreneur who has been struck off the register referred to in Article 22a.1.2 may be re-registered no earlier than 3 years after the date of the decision referred to in Article 22ac.1.

2. The provision of paragraph 1 applies accordingly to an entrepreneur who has pursued economic activity without being entered in the register. It shall not apply to the situation referred to in Article 22ab.2.

Art. 22ae. The President of UTK deletes the entrepreneur from the register referred to in Art. 22a.1.2, also upon the entrepreneur's request or after obtaining information from the Central Register of Business Activity and Information or the National Court Register about the deletion of the entrepreneur.

Article 22b. 1. Railway undertakings and managers shall issue certificates to train drivers employed by them or providing services to them, in accordance with the model specified in Annex II to Commission Regulation (EU) No 36/2010.

1a. The conditions for obtaining a train driver's certificate are:

- 1) having a train driving licence;
- 2) completion of training conducted in the manner and pursuant to the mode specified in the regulations issued on the basis of paragraph 21 passing the examination for the train driver's certificate in the case of candidate train drivers;
- 3) completion of training and passage of a test on knowledge and skills with a positive result in the manner and pursuant to the mode specified in the regulations issued on the basis of paragraph 21.4 – applies to train drivers seeking to obtain another train driver's certificate;
- 4) obtaining a medical opinion confirming satisfaction of the health, physical, and psychological requirements specified in the regulations issued on the basis of 22.1, following completion of medical and psychological examinations.

2. The train driver's certificate shall authorise to operate a train or a railway vehicle with a railway undertaking or manager who has issued it within a specific category of driving and shall be valid for the railway infrastructure and certain types of railway vehicles specified in it.

3. The train driver's certificate may include a licence to operate trains or railway vehicles in all categories and subcategories referred to in paragraph 2.

3a. In the event of provision of a traction supply service, it is permitted to operate a train or railway vehicle by a train driver on the basis of a train driver's certificate issued by another railway undertaking or manager.

3b. In the case referred to in paragraph 3a, a railway undertaking for whom a train driver operates a railway vehicle or a train shall be obliged to ensure that such train driver has been acquainted with its applicable internal regulations to the extent necessary for safe operation of a railway vehicle or train.

4. Railway undertakings and railway infrastructure managers shall establish procedures for issuing train drivers' certificates being part of their safety management system referred to in Article 17a.

5. The procedures of issuing the certificates referred to in paragraph 4 shall especially define:

- 1) the manner of issuing a train driver's certificate, updating data included in it, its suspension and revocation;
- 2) the manner of appealing against a decision on issuance of a train driver's certificate, its suspension, and revocation.
- 3) (repealed)

6. The procedure referred to in paragraph 4 shall be made public by railway undertakings and railway infrastructure managers in the manner adopted by each of them.

7. In order to keep their train driver's certificates valid, train drivers shall undergo periodic medical and psychological examinations and shall obtain a medical opinion confirming satisfaction of the health, physical, and psychological requirements specified in the regulations issued on the basis of paragraph 22.1 and shall undergo training, and also periodic tests of knowledge and skills in the manner and pursuant to the conditions specified in the regulations issued on the basis of paragraph 21.4.

7a. The examinations referred to in paragraph 7 shall be conducted every:

- 1) 24 months – until the 55th year of age,
- 2) 12 months – after the 55th year of age,
– unless, a medical opinion indicates a shorter period.

7b. The examinations referred to in paragraph 7 shall be conducted in periods shorter than the periods referred to in paragraph 7a:

- 1) after each serious accident in which a train driver has been involved;
- 2) after completion of a temporary incapacity to work caused by illness lasting longer than 30 days;

- 3) in the event of a train driver's return to work after a break lasting longer than 6 months;
- 4) in the justified suspicion of losing physical or psychological capabilities to operate a railway vehicle or train;
- 5) in the case referred to in paragraph 16;
- 6) in other cases specified in the regulations concerning preventive protection of employees' health.

7c. The examinations referred to in paragraph 1a.4, paragraph 7 and 7b, subject to paragraph 7a and the regulations issued on the basis of paragraph 22, shall be performed to the extent and pursuant to the conditions specified in the Act of 26 June 1974 on the Labour Code (Journal of Laws of 2020, item 1320 and 2021, item 1162).

7d. Taking the examinations referred to in paragraph 1a.4, paragraph 7 and 7b by a train driver shall be recognised as fulfilment of the employee's obligations relating to the performance of initial, periodic, and check examinations referred to in Article 229.1 and Article 229.2 of the Labour Code.

7e. Railway undertakings and managers may not admit to work as a train driver a person without a valid medical opinion confirming satisfaction of the health, physical, and psychological requirements necessary to obtain a train driver's certificate or to keep it valid, with the exception of the case specified in paragraph 18.4 with respect to candidates for train drivers.

7f. Railway undertakings and managers shall be obliged to:

- 1) send train drivers to medical and psychological examinations to obtain a train driver's certificate or to keep it valid;
- 2) cover the expenses of the medical and psychological examinations referred to in subparagraph 1;
- 3) store medical opinions of train drivers.

7g. Fulfilment of the obligations referred to in paragraph 7f.1 and 7f.2 by railway undertakings and managers shall be recognised as satisfaction of the employer's obligations relating to the performance of initial, periodic, and check examinations referred to in Article 229.1 and Article 229.2 of the Labour Code.

8. Railway undertakings or railway infrastructure managers shall revoke or suspend, in whole or in part, the validity of a train driver's certificate when a train driver has ceased to satisfy the conditions necessary to hold a certificate.

9. (repealed)

10. A train driver's certificate shall expire under operation of the law as from the termination or expiry of the contract of employment or another legal relation binding a train driver with a railway undertaking or a railway infrastructure manager.

11. In the case referred to in paragraph 10, a railway undertaking and manager shall issue to the train driver a copy of the obtained train driver's certificate the model of which is specified in Annex III to Regulation (EU) No 36/2010, and other documents confirming the obtained qualifications.

12. A railway undertaking or a railway infrastructure manager shall immediately update a train driver's certificate if its holder has obtained additional licences concerning a train, a railway vehicle, or a railway infrastructure.

13. A railway undertaking or a railway infrastructure manager shall revoke a train driver's certificate of a person who has ceased to satisfy the conditions referred to in paragraph 7.

14. Railway undertakings and managers shall keep registers of train driver's certificates issued by them either by means of their own IT system or by means of the register provided for in Article 25x.1.

14a. Railway undertakings and managers shall make the data collected in the registers referred to in paragraph 14 and the information about the content of train driver's certificates available to:

- 1) the President of UTK;
- 2) the National Railway Accident Investigation Committee pursuant to Article 28h.2.4 and the railway committee referred to in Article 28m;
- 3) relevant authorities of other Member States of the European Union in the event of performance of cross-border operations by a railway undertaking or a manager;
- 4) other entities, if the obligation of provision of data is established under separate regulations.

15. The President of UTK may apply to a railway undertaking or a railway infrastructure manager with a request for performing a check of a train driver, or suspending the validity of a train driver's certificate.

16. After obtaining a request of the President of UTK a railway undertaking or a railway infrastructure manager shall be obliged to undertake appropriate actions, in particular to send a train driver for medical examinations or test his knowledge and skills, and, within a period of 4 weeks from receipt of the request, shall submit a report to the President of UTK on the completed actions.

17. By way of a decision the President of UTK may issue a prohibition to operate a train or a railway vehicle by a train driver for a period during which the request referred to in paragraph

15 is reviewed, if it is justified by reasons concerning railway traffic safety. The President of UTK shall inform the European Commission and other relevant authorities about that decision.

18. In the event of:

- 1) disturbances in railway traffic as a result of conducted work on tracks or causing a necessity of deviations from the performance of rail transport services pursuant to the applicable timetable for trains, in accordance with arrangements made by a manager,
- 2) one-off rail transport services pursuant to a manager's consent,
- 3) supply or presentation of a new train or a railway vehicle,
- 4) training or examining train drivers and candidates for train drivers,
- 5) performance of service transports,

– if a train driver or a candidate for a train driver seeking to obtain a train driver's certificate does not know sections of railway lines on which they are to operate a railway vehicle or a train, they may operate it provided that there shall be another train driver or a representative of the manager next to them during the ride with documented knowledge of those sections.

19. In the cases referred to in paragraph 18, if it is not possible to ensure presence of the persons referred to in that regulation, a train driver may operate a railway vehicle or a train after satisfying the conditions specified in the regulations issued on the basis of Article 17.7.

20. (repealed)

20a. A train driver shall be obliged to immediately notify a railway undertaking or a manager for whom it performs work or services, about circumstances concerning his condition of health affecting proper performance of his licences under a train driver's certificate.

20b. The provisions of paragraph 20a shall be applied to a driver of railway vehicles who performs work or services for a railway side-track user or an entrepreneur performing transport services within a railway side-track.

21. By way of a regulation, the minister competent for transport shall define:

- 1) the scope of knowledge and skills concerning a railway vehicle and a railway infrastructure included in training which shall be necessary to obtain a train driver's certificate,
- 2) curriculum and duration of training for candidates for train drivers seeking to obtain a train driver's certificate,
- 3) (repealed)
- 4) the mode and detailed conditions and the minimum frequency of conducting training and tests of knowledge and skills,
- 5) the scope of data on the railway infrastructure included in a train driver's certificate,

6) the detailed conditions and the manner of keeping the register of train driver's certificates, the scope of data included in it, and the period of its storage, the model of such register, and also the manner of transferring data included in the register to the entities referred to in paragraph 14a,

– having regard to the scope of knowledge and skills necessary for ensuring the appropriate qualifications of train drivers, the necessity of adjusting the training curriculum to the education and professional experience of candidates for train drivers, while ensuring a necessary number of hours of on-the-job traineeship, theoretical and practical training and operating a railway vehicle under supervision, the necessity of conducting a theoretical and practical part of the examination for candidates for train drivers seeking to obtain a train driver's certificate, ensuring the appropriate organisation and merit-based level of such examination, and also ensuring uniform conditions for their performance, the necessity of ensuring continuity of the professional improvement process for train drivers and monitoring licences held by them and the regulations of the European Union concerning the register of train driver's certificates.

22. In consultations with the minister competent for health, by way of a regulation the minister competent for transport shall define:

- 1) health, physical, and psychological requirements that persons seeking to obtain a train driver's certificate or to keep it valid should comply with,
- 2) the scope of medical and psychological examinations and the manner of assessing physical and psychological capabilities of persons seeking to obtain a train driver's certificate, or to keep it valid and the manner of issuing opinions on such capabilities,
- 3) models of the documents confirming physical and psychological capabilities of persons seeking to obtain a train driver's certificate or to keep it valid

– having regard to the necessity of conducting examinations necessary for the proper assessment of physical and psychological capabilities for operating railway vehicles, the necessity of taking into account a specific nature of the train driver's job while defining health requirements, ensuring efficiency of the procedure of issuing documents confirming the physical and psychological capabilities of persons seeking to obtain a train driver's certificate or to keep it valid, and also the need of standardising the issued documents and their protection against being forged or redone.

Article 22ba. 1. The President of UTK, upon application of a train driver candidate, shall conduct an examination for a train driving licence on the basic professional knowledge, covering

issues relevant to the train driver's profession and applicable to the type and extent of rolling stock or railway infrastructure.

2. The application shall be submitted in electronic form via the information and communication system supporting the register referred to in Article 25x.1 and signed using a qualified electronic signature, a trusted signature or a personal signature.

3. Together with the application form, a train driver candidate may apply for a train driving licence including the declaration referred to in Article 22.2b.

4. The President of UTK shall provide on the website of the Office of Rail Transport an access to the information and communication system with a possibility to pay for examination for train driving licence using online payment system.

5. The President of UTK shall publish in the IT system a list of dates of examination sessions for the train driving licence examination.

6. The examination for train driving licence shall be conducted by an examiner appointed by the President of UTK from the register of examiners referred to in Article 22be.1.

7. In order for a train driver candidate to be admitted to the examination for a train driving licence, he must comply with the requirements referred to in Article 22.2.1 to 5.

8. The examiner shall not admit an applicant driver to the examination for a train driving licence if:

- 1) it is not possible to establish the identity of a train driver candidate sitting for the examination for a train driving licence;
- 2) the fee for the examination for the train driving licence was not paid;
- 3) the data on the identification document of the candidate applying for the examination for the train driving licence does not correspond to the data contained in the register provided for in Article 25x.1.

9. The examination for the train driving licence shall consist of a theoretical part and shall be conducted in the form of an electronic single-choice test with questions generated in real time by means of a data communication system.

10. The President of UTK shall draw up and fix a list of questions for the examination for the train driving licence.

11. The questions referred to in paragraph 10 shall not constitute public information within the meaning of the provisions of the Act of 6 September 2001 on Access to Public Information (Journal of Laws of 2020, item 2176 and 2021, item 1598 and 1641).

12. A train driver candidate may lodge an appeal with the President of UTK against a negative result of the examination for the train driving licence.

13. The appeal referred to in paragraph 1 shall be lodged within 14 days from receiving the result of the examination for the train driving licence.

14. Failure to comply with the time limit referred to in paragraph 13 for lodging an appeal referred to in paragraph 12 shall result in leaving the appeal unprocessed.

15. The President of UTK shall examine the appeal, referred to in paragraph 12, within days 30 from the date of its receipt.

16. If the appeal referred to in paragraph 12 is justified, the President of UTK shall conduct a new examination for the train driving licence, for which there is no fee. The provisions of paragraphs 6 to 11 apply to a new examination for a train driving licence.

Article 22bb. 1. The President of UTK, upon application of railway undertaking or manager employing a train driver candidate, shall conduct examination for train driver's certificate.

2. An application shall be submitted in an electronic form via the information and communication system supporting the register referred to in Article 25x.1 and signed using a qualified electronic signature, a trusted signature or a personal signature by a person authorised by the applicant.

3. In order for a candidate to be admitted to the examination for the train driver's certificate, they should:

- 1) have of a valid train driving licence;
- 2) have completed a training course for train driver candidates applying for the train driver's certificate;
- 3) have passed a test of knowledge and skills of the type of railway vehicle and infrastructure on which the examination is to be conducted.

4. The provisions of Article 22ba.4 and Article 22ba.8 shall apply mutatis mutandis.

5. The examination for the train driver's certificate shall consist of a theoretical part and a practical part, testing the train driver candidate's knowledge and skills to perform duties as a train driver autonomously and safely.

6. The theoretical part of the examination for the train driver's certificate shall be conducted in the form of:

- 1) an electronic one-choice test with questions generated in real time by an IT system, and
- 2) tasks to be carried out using a railway vehicle simulator.

7. The President of UTK prepares and determines a list of questions referred to in paragraph 6.1. The questions do not constitute public information within the meaning of the Act on Access to Public Information.

8. The theoretical part of the examination for the train driver's certificate shall be conducted by an examiner appointed by the President of UTK from the register of examiners referred to in Article 22be.1.

9. The practical part of the examination for the train driver's certificate consists of driving the vehicle on the railway infrastructure under the supervision of examiners referred to in paragraph 10.

10. The practical part of the examination for the train driver's certificate shall be conducted by the examiner delegated by the training centre where the train driver candidate applying for the train driver's certificate has been trained, and by the examiner employed and appointed by the President of UTK.

11. The examiner delegated by the training centre referred to in paragraph 10 shall hold the train driver's certificate authorising him to drive the type of railway vehicle and to ride on the railway infrastructure for which the examination is being conducted, or, if not, a valid train driver's certificate for the relevant infrastructure or the type of railway vehicle.

12. The entity applying for the examination for train driver's certificate shall provide a vehicle and a route, necessary for the practical part of the examination for train driver's certificate, at a date and place agreed with the President of UTK.

13. In order for a train driver candidate to be admitted to the practical part of the train driver's certificate examination, they should pass the theoretical part of the train driver's certificate examination.

14. A train driver candidate may submit an appeal to the President of UTK against a negative result of the examination for the train driver's certificate. The provisions of Article 22ba.13 to 15 shall apply *mutatis mutandis*.

15. If the appeal referred to in paragraph 14 is justified, the President of UTK shall conduct a new examination for the train driver's certificate, for which there is no fee. The provisions of paragraphs 3 and 5 to 13 and Article 22ba.8 shall apply to renewed examination for the train driver's certificate.

Article 22bc. 1. The minister competent for transport shall specify, by regulation:

- 1) detailed content of the basic professional knowledge included in the examination for the train driving licence;

- 2) the method, form and procedure for preparing and conducting the examination for the train driving licence and the re-examination for the train driving licence;
- 3) the detailed knowledge and skills covered in the examination for the train driver's certificate;
- 4) how, in what form and in what manner the examinations for the train driver's certificate and the re-examination for the train driver's certificate should be prepared and conducted.

2. The minister competent for transport shall issue the regulation referred to in paragraph 1, having regard to:

- 1) the knowledge and skills required for the safe operation of railway vehicles;
- 2) the need to guarantee appropriate organisation of examinations for train driving licences and re-examinations for train driving licences;
- 3) the need to ensure an appropriate level of examination content for the train driver's certificate;
- 4) the need to ensure that the theoretical and practical parts of the examination for the train driver's certificate and the re-examination for the train driver's certificate are organised appropriately and are of a suitable level.

Article 22bd. 1. The examiner shall be a person who:

- 1) has at least 4 years of professional experience in the field of railway traffic operation and safety, acquired within the 5 years preceding the date of application for registration in the register of examiners referred to in Article 22be.1;
- 2) has at least a secondary education or secondary vocational education;
- 3) holds a valid train driving licence and train driver's certificate covering the competences to be examined or a similar type of line/rolling stock - for examiners conducting the practical part of the train driver's examination;
- 4) has a command of the Polish language which corresponds at least to level B2 of the Common European Framework of Reference for Languages of the Council of Europe;
- 5) has completed at least 80 hours of training on the rules of railway traffic and signalling in force on the railway network of the Republic of Poland, conducted by the training centre which is authorised to carry out the activities referred to in Article 22a.4c.4 for examiners referred to in point 3 who obtained their train driving licences in another Member State of the European Union;
- 6) not have been convicted of an intentional crime against security of communication or credibility of documents by a final judgment;

- 7) guarantees that they will act impartially and independently;
- 8) is included in the register of examiners referred to in Article 22be.1.

2. Examiners shall be obliged to continually improve and update their professional competences by participating in at least one in-service training course on the knowledge and methodology of examinations for train drivers organised by the President of UTK every 3 years.

3. The President of UTK shall organise the training referred to in paragraph 2 at least once every 3 years.

Article 22be. 1. The President of UTK keeps in the information and communication system a register of examiners in order to perform the task referred to in Article 13.1a.7b. The register of examiners is available in the Public Information Bulletin on the website of the Office of Rail Transport, excluding data referred to in paragraph 2.2 to 2.7.

2. The following data of examiners are collected in the register of examiners:

- 1) first name(s) and surname;
- 2) date and place of birth;
- 3) the PESEL number, and in the case of a person without the PESEL number - the series, number and name of the identity document and the name of the country which issued the document;
- 4) nationality;
- 5) address of residence;
- 6) number of the train driving licence if it was issued;
- 7) registration number;
- 8) scope of competences;
- 9) information on participation in the training referred to in Article 22bd.2.

3. The President of UTK makes entry into the register of examiners on application, which includes data referred to in paragraph 2.1 to 2.6. The application is accompanied by:

- 1) copies of documents confirming that the requirements referred to in Article 22bd.1.1 to 5 have been met;
- 2) a declaration of not having been convicted by a final court judgement for committing a crime referred to in Article 22bd.1.6, subject to criminal liability for making a false statement; the person making the declaration is obliged to include the following paragraph: "I am aware of the criminal liability for making a false statement under Article 233 § 6 of the Act of 6 June 1997 - Penal Code."; the paragraph replaces the instruction of the authority on penal liability for making false statements;

3) the declaration referred to in Article 22a.5.5a.b.

4. The documents confirming the knowledge of the Polish language referred to in Article 22bd.1.4 are:

- 1) a certificate of proficiency in Polish certifying that the student has passed the examination in Polish at the intermediate or advanced level, issued by the State Commission for the Certification of Proficiency in Polish as a Foreign Language;
- 2) a certificate confirming at least a B2 level in the Common European Framework of Reference for Languages of the Council of Europe;
- 3) a certificate or other equivalent document obtained in the Polish educational system on completion of education in Polish, or a diploma on completion of higher education studies conducted in Polish.

5. The President of UTK:

- 1) enters into the register of examiners a person who meets the requirements referred to in Article 22bd.1.1 to 7 and gives a registration number to the examiner;
- 2) refuses entry in the register of examiners by decision if a person fails to satisfy the requirements referred to in Article 22bd.1.1 to 7;
- 3) removes from the register of examiners, by a decision with immediate effect, if:
 - a) an application to remove an examiner from the register of examiners was submitted,
 - b) an examiner does not meet the requirements referred to in Article 22bd.1.1 to 7,
 - c) an examiner does not meet the requirement referred to in Article 22bd.2,
 - d) an examiner dies;
- 4) updates the register of examiners in the event of a change in data.

6. An applicant for registration as an examiner shall be exempted from an obligation to attach copies of documents confirming that the requirements referred to in Article 22bd.1.1 to 3 and 6 are met, if these documents have been previously checked by the competent authority of another Member State of the European Union and are not relevant for the purpose of conducting examinations for train driving licences or examinations for train driver's certificates exclusively on the railway network of the Republic of Poland.

7. The examiner provides the President of UTK with information about the change of data referred to in paragraph 2.1 and 3-6 within 14 days from the date of their occurrence.

8. The President of UTK issues to an examiner a certificate of recognition containing data referred to in paragraph 2.

9. Data collected in the register of examiners and copies of documents confirming the fulfilment of requirements shall be stored for a period of up to 5 years from the date of de-registration.

Article 22c. 1. A railway undertaking and manager may conclude an agreement with a candidate for a train driver obliging such candidate to reimburse part or all expenses incurred for their training, if termination or expiry of a contract of employment or another legal relation binding a candidate for a train driver with a railway undertaking or a manager, respectively, has occurred prior to the date set in such contract due to a reason attributable to such candidate.

2. The provision of paragraph 1 shall be accordingly applied in the case of training of a train driver seeking to obtain another train driver's certificate.

Article 22ca. 1. A train driver shall be obliged to immediately inform a railway undertaking or manager for whom he performs work or services, by way of a written statement, about:

- 1) performance of work or services for more than one railway undertaking, manager, railway siding user, or an entrepreneur performing transport operations within a railway siding, or
- 2) failure to perform operations of a train driver or operator of railway vehicles for another railway undertaking, manager, railway siding user, or an entrepreneur performing transport services within a railway siding.

2. A train driver shall make the statement referred to in paragraph 1 on the day of commencing work or performance of services, and subsequently in each case of undertaking or ceasing to perform operations of a train driver for more than one entity.

3. The statement referred to in paragraph 1.1 shall contain information on an average weekly number of hours of operating a railway vehicle or a train with another railway undertaking, manager, railway side-track user, or an entrepreneur performing transport services within a railway side-track.

4. If the statement referred to in paragraph 1.1 has been made, a railway undertaking or a manager shall provide it to the President of UTK, not later than within 14 days from its receipt.

5. The provisions of paragraph 1-4 shall be applied to a driver of railway vehicles who performs work or services for a railway side-track user or an entrepreneur performing transport services within a railway side-track, respectively.

Article 22d. 1. Employees hired in positions directly involving railway traffic management and safety and operation of specified types of railway vehicles: train controller, point operator, train guard, setter, shunter, rolling stock auditor, automation specialist, track supervisor, crossing

keeper, railway vehicles operator referred to in Article 18.2.1 and Article 18.2.2, shall be obliged to:

- 1) have the required education,
- 2) satisfy the health, physical, and psychological requirements,
- 3) have the required professional skills,
- 4) pass the qualification examination

– as provided for in the regulations issued on the basis of paragraph 3.1.

2. The employees referred to in paragraph 1 shall be obliged to have and present to a competent authority a document authorising to perform operations in the positions referred to in paragraph 1.

3. By way of a regulation, the minister competent for transport shall define:

- 1) for the positions referred to in paragraph 1, the conditions that persons employed in them shall be obliged to comply with, and also the conditions and the manner of assessment of their physical and psychological capabilities, units authorised to assess physical and psychological capabilities, and the manner of issuing opinions on such capabilities,
- 2) the manner of appointing and operating of examination boards that check qualifications of employees hired in the positions referred to in paragraph 1, the models of the documents confirming such qualifications and authorising to perform operations in such positions, the amount of remuneration of examination board members and the amount of fees related to checking qualifications of employees, taking into account the provision of paragraph 4, and also the manner of payment of such fees

– having regard to ensure safety in railway transport, appropriate qualifications of persons employed in such positions, appropriate conditions for the performance of assessment of physical and psychological capabilities, workload of examination board members and their qualifications, and also tangible and personnel costs related to checking of employees' qualifications.

4. The amount of the fee related to checking the qualifications of the employees employed in the positions referred to in paragraph 1 may not exceed a Polish zloty equivalent of EUR 30 using a mean exchange rate announced by the National Bank of Poland applicable on the date on which the document confirming the employee's qualifications has been issued.

Article 22e. 1. No less frequently than once every 5 years, the minister competent for transport shall perform the assessment of the system of obtaining a train driving licence and a train driver's certificate, having regard to the necessity of ensuring effectiveness and transparency of such system and safety in railway traffic. Results of the assessment are public.

2. In order to perform the assessment referred to in paragraph 1, minister competent for transport may request from the President of UTK, railway undertakings, railway infrastructure managers provision of information and explanations necessary for the assessment performance.

3. Results of the assessment of the system of obtaining a train driving licence and a train driver's certificate shall be provided to the interested entities and the President of UTK.

4. If there are irregularities established in the result of the assessment referred to in paragraph 1, the minister competent for transport shall apply to the President of UTK with a request to set a date for removal of irregularities that have been found in such entity.

5. The President of UTK may impose a financial penalty on a railway undertaking or a railway infrastructure manager in the amount specified in Article 66.2 who has failed to remove within the prescribed date the irregularities found as a result of the assessment referred to in paragraph 1. Article 66.4 shall be applied.

Article 22f. 1. Obtaining a certificate permitting to operate a type for the first unit shall be a condition for permitting to operate types of structures and types of devices which affect the safety level in railway traffic which are referred to in the regulations issued on the basis of paragraph 14.2.

2. If a specific type of devices or structures is manufactured by more than one manufacturer, it shall be required to obtain a certificate permitting to operate a type for the first unit manufactured by each of such manufacturers.

3. A certificate permitting to operate a type shall be issued for an unspecified period of time, and in the case of new types or a necessity of performing operating tests for a specified period of time – provided for the performance of such tests.

4. The President of UTK shall be a competent authority in matters relating to issuing, refusing to issue and revoking a certificate permitting to operate a type.

5. Before a certificate permitting to operate a type is obtained, types of devices and types of structures shall be subject to technical examinations.

6. Technical examinations shall be performed by the organisation referred to in Article 22g.9.

7. After completion of technical examinations with a positive result, the organisational unit referred to in Article 22g.9 shall issue a type approval certificate.

8. Subsequent devices or structures compliant with the type for which the President of UTK has issued a certificate permitting to operate a type shall be recognised as permitted to operate, if:

- 1) a manufacturer or his authorised representative has performed a procedure of the assessment of conformity with the type, and then has issued a declaration of type conformity, or
- 2) awarding authority, an upgrade contractor, an importer, an investor, an administrator, a manager, a railway side-track user, or a railway undertaking has issued a declaration of type conformity for devices or structures that they intend to introduce to operate, after the organisational unit referred to in Article 22g.9 has previously performed technical examinations necessary to establish type conformity completed with the issue of a type conformity certificate.

9. By way of a decision the President of UTK shall revoke a certificate permitting to operate a type if it has been established that a device type or a structure type poses a hazard to railway traffic safety or to safety of transportation of persons and goods.

10. If a manufacturer or his authorised representative is a party to the proceedings into a case of revocation of a certificate permitting to operate a type, in the decision referred to in paragraph 9, the President of UTK shall order it:

- 1) purchasing or replacing, by the prescribed date, devices or structures, respectively, that are compliant with the permitted type, upon request of the entities that actually possess them;
- 2) notifying the entities possessing devices or structures, respectively, that are compliant with the permitted type, about revocation of the certificate permitting to operate a type, indicating the date and manner of their notification.

11. As regards railway networks, the conditions referred to in paragraph 1 and 8 apply to types of devices and types of structures to be operated:

- 1) on private infrastructure;
- 2) to the extent referred to in Article 3.8 and Article 3.9.1;
- 3) in the cases referred to in Article 25d.1.2–4;
- 4) if the President of UTK has granted the deviations referred to in Article 25f. 1.

12. Obtaining a certificate permitting to operate a type shall not be required for types of devices and types of structures referred to in paragraph 1 that are included in TSI as interoperability constituents and included in an EC declaration of conformity or suitability for use of an interoperability constituent.

13. The provisions of paragraphs 1–12 shall apply to railway vehicle types referred to in the regulations issued on the basis of paragraph 14.2 to be operated only:

- 1) on railway sidings;
- 2) 1a) on private infrastructure;

- 3) on narrow-gauge railway infrastructure;
- 4) in the Metro;
- 5) in the railway network referred to in Article 3.8.

13a. The provisions of paragraphs 1–12 shall also apply to railway vehicles intended exclusively for local use, historic vehicles and tourist vehicles which are used on the rail network, irrespective of the railway track on which they run.

14. By way of a regulation, the minister competent for transport shall define:

- 1) the manner of issuing, refusing to issue, and revoking certificates permitting to operate a type;
- 2) the list of types of structures, devices, and railway vehicles for which it is required to obtain a certificate permitting to operate a type;
- 3) the scope of technical examinations necessary to issue a certificate permitting to operate a type and establishment of type conformity;
- 4) the detailed conditions and the manner of issuing type approval certificates, type conformity certificates, and declarations of type conformity;
- 5) the conditions of conducting operating tests;
- 6) procedure of the assessment of type conformity;
- 7) template of:
 - a) certificate permitting to operate a type,
 - b) type approval certificate,
 - c) type conformity certificate,
 - d) declaration of type conformity.

15. By issuing the regulations referred to in paragraph 14, the following shall be considered:

- 1) the necessity of ensuring efficiency of application of the procedure of issuing certificates permitting to operate a type;
- 2) the necessity of inclusion in the list referred to in paragraph 14.2 devices which affect railway traffic safety, structures which constitute elements of the railway surface, self-propelled railway vehicles, wagons, and special railway vehicles;
- 3) the necessity of conducting all the required examinations which allow establishing satisfaction of the requirements specified in the relevant technical specifications and standardising documents;

- 4) the requirements and procedures regarding permission to operate elements of the rail system included in the regulations of the European Union concerning the interoperability of the rail system;
- 5) the modules of the procedure of conformity assessment described in the regulations of the European Union establishing common framework for product marketing;
- 6) necessity of standardising the issued documents.

Article 22g. 1. Conducting operations consisting in the performance of technical tests necessary to obtain certificates permitting to operate a type, and also to establish type conformity and issuance of type approval certificates and type conformity certificates shall require obtaining approval of the President of UTK.

2. Consent to the performance of the operations referred to in paragraph 1 may be granted to an organisational unit which satisfies the following requirements:

- 1) it ensures performance of technical tests by persons with technical knowledge relating to types of structures, devices, or railway vehicles, respectively which are subject to technical tests and certification;
- 2) it is independent and impartial towards entities which are directly or indirectly involved in the manufacturing process of types of structures, devices, or railway vehicles respectively which are subject to technical tests and certification;
- 3) it ensures performance of technical tests with the use of necessary equipment;
- 4) it has obtained an accreditation certificate on the basis of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems in relation to the scope of its operations.

3. By way of a decision the President of UTK shall grant consent to an organisational unit to perform the operations referred to in paragraph 1, if such unit satisfies the requirements specified in paragraph 2. The decision shall indicate the types of devices, structures, or railway vehicles which the organisational unit may examine and certify.

4. By way of a decision the President of UTK shall refuse to grant consent to an organisational unit to perform the operations referred to in paragraph 1, if such unit does not satisfy the requirements specified in paragraph 2.

5. If there are violations of the requirements specified in paragraph 2 established, by way of a decision the President of UTK shall suspend the authorisation of the organisational unit to perform the operations referred to in paragraph 1, indicating a date for rectification of the violations that form the basis for suspension.

6. The organisational unit authorised to perform the operations referred to in paragraph 1 may apply to the President of UTK with a request to extend the scope of authorisations indicated in the decision referred to in paragraph 3. By way of a decision, the President of UTK shall extend the scope of authorisations of such organisational unit after it has been confirmed that the requirements referred to in paragraph 2 have been satisfied to the extent necessary for the performance of examinations and certifications of types of devices, structures, or railway vehicles included in the request.

7. By way of a decision, the President of UTK shall limit the scope of authorisations granted to the organisational unit in the decision referred to in paragraph 3 or 6, in the event whereby the requirements referred to in paragraph 2 have been ceased to be satisfied to the extent necessary to perform examinations and certifications of specific types of devices, structures, or railway vehicles.

8. By way of a decision, the President of UTK shall revoke the authorisation for the organisational unit to perform the operations referred to in paragraph 1, in the event of:

- 1) ineffective expiry of the date for rectification of the violations that form the basis for the suspension of such unit's authorisations;
- 2) establishment that type approval certificates or type conformity certificates have been issued without prior performance of all technical examinations indicated in the regulations issued on the basis of Article 22f.14.3;
- 3) liquidation or bankruptcy proceedings covering winding up of the bankrupt's assets have been completed against the organisational unit.
- 4) submission of written information by the organisational unit on cessation of performance of such operations.

9. The President of UTK shall include in the Bulletin of Public Information at the website of the Office of Rail Transport a list of the organisational unit authorised to perform technical examinations necessary for obtaining certificates permitting to operate a type, confirming type conformity, and issuing type approval certificates and type conformity certificates together with their scope of authorisations.

Article 22h. 1. The President of UTK ex officio in case of urgent, unforeseen circumstances affecting operation of railway transport, by means of administrative decision, may temporarily establish exceptions from requirements specified in executive regulations issued on the basis of Article 22a.11 points 1, 4-7, 9-11, 12.a, 12.b and Article 22a.13, Article 22b.21 points 1, 2 and 4, Article 22b.22.3 and Article 22d.3 and define their conditions.

2. In cases referred to in paragraph 1, the President of UTK, in accordance with Article 49 of Code of Administrative Procedure, notifies decisions and other actions taken in the course of proceedings only by means of announcement in the Official Journal of the President of UTK.

3. The decision referred to in paragraph 1 shall be immediately enforceable.

Article 23. 1. (repealed)

2. (repealed)

3. A railway undertaking or a manager may perform transport operations using only railway vehicles which have been marked with the European vehicle number (EVN). Upon consent of the President of UTK a railway undertaking or a manager may perform operations by railway vehicles used within the territory of the Republic of Poland which are marked in a numbering system that is separate from EVN.

4. In the case of an operated railway vehicle or a railway vehicle to be operated on railway routes with states in which the track width differs from the track width on the main railway network within the territory of the Republic of Poland, a railway undertaking or a manager may perform operations by a railway vehicle used within the territory of the Republic of Poland which is marked in a numbering system that is separate from EVN.

5. In the case of a railway vehicle moving from states other than the Member States of the European Union over a railway network the track width of which differs from the track width of the main railway network within the territory of the Member States of the European Union the relevant national technical specifications and standardisation documents, the application of which enables to meet the essential requirements of the rail system, shall apply, unless otherwise specified in bilateral agreements to which the Republic of Poland is a party.

6. (repealed)

7. (repealed)

8. (repealed)

Article 23a. 1. The President of UTK:

1) upon request of the administrator shall:

a) (repealed)

b) introduce changes to the register data in the European Vehicle Register (EVR) for a railway vehicle has been registered in it,

c) withdraw from operations a railway vehicle which has been registered in the European Vehicle Register;

1a) upon request of a manager, a railway undertaking, an administrator, a manufacturer, or his authorised representative having its registered office in the territory of the European Union, an upgrade contractor, or an importer:

- a) reserve a European vehicle number (EVN) for a new or an upgraded railway vehicle before issuing a placing on the market authorisation, type authorisation or declaration of conformity to an authorised type of vehicle,
- b) assign a European Vehicle Number (EVN) to a railway vehicle authorised to be placed on the market in the territory of the Republic of Poland and register it in the European Vehicle Register (EVR) kept by the Agency;

2) performing the activities referred in paragraph 1, 1a, and 4, it shall prepare a report that it shall forward to the requesting entity;

3) by way of a decision shall suspend registration of a railway vehicle in the following cases:

- a) expiry of an authorisation to place a railway vehicle on the market,
- b) when a new administrator does not have the letter-based administrator's identifier (VKM),
- c) when no new administrator has accepted an administrator status as at the deregistration date of the currently registered administrator,
- d) when no new entity has confirmed acceptance of such function as at the deregistration date of the currently registered entity in charge of maintenance (ECM) of a railway vehicle;

4) in the event whereby the reasons referred to in paragraph 3 have ceased to exist, upon the administrator's request it shall register a railway vehicle in the European Vehicle Register.

2. A railway vehicle is entered in the European Vehicle Register (EVR) after the following conditions have been met:

- 1) having a valid certificate permitting to operate it;
- 2) having a letter-based administrator's identifier (VKM);
- 3) indication of an entity in charge of maintenance ECM).

3. The requests referred to in paragraph 1.1, 1a, and 4 shall be reviewed not later than within a month from submission of a complete request.

4. If a railway vehicle does not satisfy the conditions referred to in paragraph 2, the President of UTK shall call upon the requesting entity to supplement deficiencies within a period

not longer than 30 days from receipt of the call, while instructing it, that failure to remove deficiencies shall result in issuing a decision on refusal to:

- 1) register a railway vehicle in the European Vehicle Register (EVR);
- 2) introduce a change to the register data in the European Vehicle Register (EVR).

Article 23b.

1. Before placing a railway vehicle in service, an authorisation to place a railway vehicle on the market shall be granted by:

- 1) the Agency if the area of use of the railway vehicle covers one or more Member States of the European Union;
- 2) Agency or President of UTK - if the area of use of railway vehicle includes only the territory of the Republic of Poland.

2. An authorisation to place a railway vehicle on the market shall be granted on application by the manager, the railway undertaking, the keeper, the manufacturer or his authorised representative, the retrofitter or the importer.

3. The manner of submitting the application referred to in paragraph 2 shall be set out in Article 31 of Commission Implementing Regulation (EU) 2018/545 of 4 April 2018 laying down practical arrangements for the authorisation process for railway vehicles and railway vehicle type-approvals pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council (OJ L 90, 06.04.2018, p. 66, as amended), hereinafter referred to as "Commission Implementing Regulation (EU) 2018/545".

4. The processing of the application referred to in paragraph 2 and the actions to be taken shall be as set out in Chapter 6 of Commission Implementing Regulation (EU) 2018/545.

5. Agency or, in case referred to in paragraph 1.2, the President of UTK issues an authorisation to place a railway vehicle on the market or refuses its issue within 4 months from the date of receiving a complete application. In case referred to in paragraph 1.2, when the procedure is conducted by the President of UTK, the refusal of issuing an authorisation to place a railway vehicle on the market is done by means of decision.

6. Within the framework of the procedure conducted by the Agency regarding the application for placing a railway vehicle on the market, the President of UTK assesses completeness, correctness and coherence of the documentation sent by the Agency regarding the given procedure.

7. When confirmation of fulfilling of conditions specified in documentation of given procedure requires carrying out of tests on railway network, on which the vehicle is to be used,

an applicant, referred to in paragraph 2, may apply to the President of UTK with an application for issuance of temporary permit for using the vehicle for tests on railway network, on which the vehicle is to be used and, within 7 days from the date of application submission, informs the manager about the application. The President of UTK, by means of decision, issues a permit or refuses its issue within one month from the date of application and at the same time informs in writing the manager about the decision issued. In this permit the President of UTK may specify conditions of performing tests on railway network, on which railway vehicle will be used.

8. The manager shall enable tests, referred to in paragraph 7, to be carried out not later than within 3 months from the date of submission by the applicant, referred to in paragraph 2, to the President of UTK of an application for a temporary permit for using a railway vehicle for the purpose of tests on the railway network, on which the vehicle is to be used.

9. Independently of carrying out tests in case referred to in paragraph 7, if during assessment of application for an authorisation to place a railway vehicle on the market there is a justified doubt, the Agency or, in case referred to in paragraph 1.2, the President of UTK may request to carry out tests on the railway network, on which the railway vehicle is to be used. The applicant referred to in paragraph 1.2, may apply to the President of UTK for issuing temporary permit for using a railway vehicle for testing on the railway network, on which the vehicle is to be used and, within 7 days from the date of application, informs the manager about it. The President of UTK, by means of decision, issues a permit or refuses its issue within one month from the date of application and at the same time informs in writing the manager about the decision issued. In permit, the President of UTK may specify conditions of carrying out tests on railway network, on which railway vehicle is to be used. The manager shall enable such tests to be performed not later than within 3 months from the date on which the Agency or, in case referred to in paragraph 1.2, the President of UTK requires such tests to be performed.

10. The Agency or, in the case referred to in paragraph 1.2, the President of UTK within one month of receipt of the request referred to in paragraph 2:

- 1) either confirms that the dossier submitted is complete or
- 2) calls for the documentation submitted to be completed within the time limit indicated.

11. In the case of non-application of one or more TSIs or parts thereof, paragraphs 1 to 10 shall apply after obtaining the derogation referred to in Article 25f.1.

12. If the President of UTK concludes an agreement with national safety authorities of neighbouring EU Member States or in case of conclusion of relevant international agreements on cross-border traffic, an authorisation to place a railway vehicle on the market may cover border stations of neighbouring EU Member States without expanding the area of use of the

railway vehicle.

13. An applicant, referred to in paragraph 2, may, within one month of the date of notification of the decision refusing to issue an authorisation to place a railway vehicle on the market, apply to the body which issued that decision for a review of the case.

14. The request for re-examination shall be considered within 2 months of its receipt.

15. If, following a re-examination, the Agency upholds its previous decision, the applicant referred to in paragraph 2 may lodge an appeal with the Board of Appeal referred to in Article 55 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

Article 23c. (repealed)

Art. 23ca. 1. In case when the Agency does not agree with the assessment of the President of UTK, referred to in Article 23b.6, the President of UTK and the Agency shall cooperate in order to reach a joint position.

2. The Agency and the President of the UTK may involve in the cooperation referred to in paragraph 1 an applicant referred to in Article 23b.2.

3. In case when the Agency and the President of UTK do not reach a common position, referred to in paragraph 1, within one month from the date of communication by the Agency of the lack of acceptance of the assessment of the President of UTK, the Agency shall take a decision on the application for authorisation to place a railway vehicle on the market on its own.

4. The President of UTK may submit a request for arbitration to the Board of Appeal referred to in Article 55 of Regulation of the European Parliament and of the Council (EU) 2016/796 of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004, in case of a negative assessment by the President of UTK and failure to reach a common position with the Agency.

Article 23d. 1. The applicant referred to in Article 23b.2 may submit an application for authorisation for a type of vehicle. The provisions of Article 23b shall apply accordingly.

2. An application for authorisation for a vehicle type may be submitted together with an application for authorisation to place a railway vehicle on the market if it covers the same area of use.

3. In the case referred to in paragraph 2, authorisation to place a railway vehicle on the market shall simultaneously constitute an authorisation for a type of vehicle.

4. Placing on the market further railway vehicles conforming to an authorised type of vehicle shall be based on a declaration of conformity to an authorised type of vehicle issued by

the applicant referred to in Article 23b.2.

5. The declaration of conformity to type shall be issued in accordance with:

- 1) the verification procedures of the relevant TSIs, or
- 2) where TSIs do not apply - conformity assessment procedures as laid down in module B together with module D, module B together with modules F and H1 of Annex II to Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).

6. Where a type of vehicle has been authorised by the President of the UTK, he shall send this information to the Agency so that the type of vehicle can be registered in the European register of authorised types of vehicles kept by the Agency.

7. When the TSIs or national rules under which a type of vehicle authorisation has been issued change, the Agency or, where applicable, the President of UTK may order the renewal of the type of vehicle authorisation, if the amended TSIs or national rules so provide. When renewing an authorisation, only the criteria of the modified rules shall be verified.

8. Renewal of a vehicle type authorisation shall not entail changes to authorisations to place a railway vehicles on the market issued before the date of renewal of the vehicle type authorisation.

Article 23e. The list of documents to be attached to the application referred to in Article 23b.2 is set out in point Annex I8 I to Commission Implementing Regulation (EU) 2018/545.

Article 23f. (repealed)

Article 23fa. 1. When a railway undertaking becomes aware that a railway vehicle used by it does not meet one of the applicable essential requirements of the rail system, it shall adopt necessary corrective measures to ensure compliance of the vehicle with the essential requirements of the rail system. The railway undertaking shall inform the Agency and the President of UTK about adopted corrective measures not later than 30 days after their adoption.

2. If a railway undertaking obtains evidence that non-compliance with the essential requirements of the rail system exists at the time of authorisation to place a railway vehicle on the market, it shall submit it to the Agency and the President of the UTK no later than 30 days after obtaining it and shall take the necessary legal measures to ensure that the railway vehicle complies with the essential requirements of the rail system.

3. If the President of UTK, as a result of supervision activities or from other sources,

acquires knowledge that a railway vehicle or a vehicle type, which has an authorisation to place a railway vehicle on the market or an authorisation for a vehicle type, does not meet one of the applicable essential requirements of the rail system, despite its use for its intended purpose, he shall immediately call upon the railway undertaking operating such a vehicle or vehicle type to adopt necessary corrective measures to ensure compliance with the essential requirements of the rail system.

4. In any case referred to in paragraph 3, the President of UTK shall immediately inform the Agency and other national safety authorities of other Member States of the European Union.

5. If in cases specified in paragraphs 1 and 3, corrective measures applied by a railway undertaking do not ensure compliance with essential requirements of rail system and if such non-compliance leads to risk for railway traffic safety, the President of UTK introduces temporary safety measures referred to in Article 14.2a. In parallel, the President of UTK or the Agency may suspend an authorisation for a vehicle type.

6. In cases referred to in paragraphs 1 and 3, the Agency or, where applicable, the President of UTK, following the review of effectiveness of corrective measures, may, by decision, annul or amend an authorisation to place a railway vehicle on the market or an authorisation for a vehicle type, in particular if it is proven that, at the moment of granting the authorisation, one of the essential requirements of the rail system was not complied with and the non-compliance with this requirement posed a safety risk to railway traffic.

7. Where, in the cases referred to in paragraphs 1 and 3, the non-conformity with the essential requirements of the rail system is limited to a part of the area of use of a railway vehicle or of a type of vehicle and the non-conformity persists at the time of the authorisation to place on the market a the railway vehicle or of the authorisation for the type of vehicle, the Agency or, where applicable, the President of UTK, shall amend by decision, the authorisation issued, in order to exclude the part of the area of use in which the non-conformity with the essential requirements of the rail system exists.

8. The entity holding an authorisation to place a railway vehicle on the market or authorisation for a type of vehicle may within one month after receiving a decision of the Agency or the President of UTK apply for a reconsideration of the case. The application for reconsideration shall suspend the execution of the decision. The Agency or, where applicable, the President of UTK shall examine the request within one month from the date of its receipt.

9. If, as a result of the review, the Agency upholds its previous decision, the holder of an authorisation to place a railway vehicle on the market or of an authorisation for a type of vehicle may, within the time limit referred to in Article 59 of Regulation (EU) 2016/796 of the European

Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004, submit an appeal to the Board of Appeal referred to in Article 55 of that Regulation.

10. If as a result of re-consideration of the case, the President of UTK upholds the decision, the entity that holds an authorisation to place a railway vehicle on the market or an authorisation for the type of vehicle may, within 2 months after delivery of the decision, file a complaint to the administrative court.

11. The President of UTK shall send to the Agency a copy of the decision referred to in paragraph 6, no later than 14 days after the date of its issuance.

12. The decision referred to in paragraph 6 shall be recorded in the European Vehicle Register (EVR) or the European register of authorised types of vehicle respectively.

13. Where the Agency or, where applicable, the President of the UTK has taken a decision as referred to in paragraph 6, railway undertakings, which operate a type of vehicle covered by that decision shall take the necessary corrective measures to bring that vehicle into conformity with the essential requirements of the rail system. The railway undertaking shall communicate the adopted corrective measures to the Agency and to the President of the UTK no later than 30 days from their adoption.

14. In case the Agency or, where applicable, the President of UTK takes a decision referred to in paragraph 6, no railway vehicle of a type covered by such decision may be used on the territory of the Republic of Poland. In order to put such vehicles back into service, the application referred to in Article 23b.2 or Article 23d.1 should be submitted again.

Article 23g. (repealed)

Article 23h. In the event of an administrator change, a new administrator shall assume the rights and obligations of an entity that has obtained the permission to operate, once it has been entered in the National Vehicle Register (NVR) as an administrator. Where a keeper changes, the new keeper shall assume the rights and obligations of the keeper who has obtained the authorisation for placing in service as soon as he is registered in the European Vehicle Register (EVR) as keeper.

Article 23i. 1. In case of renewal or modernisation of a railway vehicle it is required to obtain a new exemption for placing the railway vehicle on the market, if:

- 1) the values of the parameters set out in the TSI and, where applicable, in the relevant national technical specifications and standardisation documents, the application of which enables

the essential requirements of the rail system to be met for checking technical compatibility between a vehicle and the area of use, have been altered in such a way that those values do not fall within the acceptable range set out in those documents;

- 2) the overall safety performance of the unit in question may be adversely affected by the works envisaged;
- 3) the relevant TSIs require this.

2. Article 23b shall apply to a new authorisation to place a railway vehicle on the market as referred to in paragraph 1.

3. Where an applicant referred to in Article 23b.2 intends to extend the area of use of a railway vehicle authorised to be placed on the market to new railway networks within the territory:

- 1) of the Republic of Poland, they shall apply to the authority which issued the original permit,
- 2) another Member State of the European Union, they shall apply to the Agency

– with an application for a new authorisation with an extended area of use, attaching an updated dossier. The list of documents to be attached to the application is set out in point 18 of Annex I to Commission Implementing Regulation (EU) 2018/545. The provisions of Article 23b.3 to 15 and Article 23ca shall apply.

Article 23j. 1. Before a railway vehicle is used, the keeper shall identify the entity in charge of the maintenance of the railway vehicle (ECM), which shall ensure that the vehicle is maintained in such a way as to guarantee its safe operation. This entity shall be listed in the European Vehicle Register (EVR).

2. An entity in charge of maintenance of a railway vehicle (ECM) by means of a documented maintenance system:

- 1) ensures that vehicles are maintained in accordance with the maintenance file for each vehicle and with the applicable requirements, including maintenance rules and the relevant TSI provisions;
- 2) implements the necessary risk evaluation and assessment measures as laid down in the Common Safety Methods (CSMs) in cooperation with other bodies, as appropriate;
- 3) provides a contractual obligation for contractors to implement risk control measures by applying Common Safety Methods (CSMs) for monitoring;
- 4) ensures traceability of maintenance activities.

3. The maintenance system includes the following functions:

- 1) management - supervising and coordinating the maintenance functions referred to in points

- 2 to 4 and ensuring the safety of a railway vehicle in the European Union rail system;
- 2) maintenance development - managing the maintenance file, including the configuration of the unit, based on design and operational data and information about the operation of the unit, including information derived from past experience;
 - 3) fleet maintenance management - managing the withdrawal of a railway vehicle for maintenance and its return to operation when maintenance is completed;
 - 4) maintenance - maintenance of a railway vehicle or parts thereof is carried out and a file is prepared for placing in service a railway vehicle.

4. An entity in charge of maintenance of a railway vehicle (ECM) shall carry out independently the management function referred to in paragraph 3.1. The functions referred to in paragraph 3.2 to 4, or parts of them may be subcontracted to other entities.

5. An entity in charge of maintenance of a railway vehicle (ECM) shall ensure that the functions referred to in paragraph 3 comply with the essential elements set out in paragraph 6.

6. The basic elements of the maintenance system are:

- 1) leadership - a commitment to develop and implement the maintenance system, including continuous improvement of its effectiveness;
- 2) risk assessment - a structured approach to evaluating risks associated with the maintenance of railway vehicles, including those arising directly from operational processes and the activities of other railway undertakings or persons, and identifying appropriate risk control measures;
- 3) monitoring - a structured approach to ensure that risk control measures are in place, working correctly and achieving the objectives of an entity in charge of maintenance (ECM);
- 4) continuous improvement - a structured approach to analysing information from regular monitoring, auditing or other appropriate sources and using the results to learn and apply preventive or corrective measures to maintain or improve safety;
- 5) structure and responsibility - a structured approach to define the responsibilities of individuals and teams to ensure that the tasks of an entity in charge of maintenance of a railway vehicle (ECM) with regard to safety are met, and to indicate how management ensures control at different levels of the organisational structure and the extent to which staff and their representatives are involved at all levels of the organisational structure;
- 6) competence management - a structured approach to ensure that staff have the competences required to achieve the objectives of an entity in charge of maintenance (ECM) safely, effectively and efficiently;

- 7) information - a structured approach to ensure that managers at all levels of the ECM organisation have valid information at their disposal and that the information is complete and correct;
- 8) documentation - a structured approach to ensure traceability of all relevant information;
- 9) subcontracting activities - a structured approach to ensure that subcontracted activities are properly managed to achieve the objectives of an entity in charge of maintenance (ECM) and to fulfil all the competences and requirements;
- 10) maintenance activities - a structured approach to ensure:
 - a) that maintenance activities affecting safety and safety-critical components are identified and properly managed and that necessary changes to those maintenance activities affecting safety are identified, properly managed using information gained from past experience and using common risk assessment methodologies, and properly documented,
 - b) conformity with the essential requirements of the rail system,
 - c) implementation and testing of maintenance facilities, equipment and tools specifically designed and required for the provision of maintenance services,
 - d) analysis of the initial documentation related to a railway vehicle in order to ensure first documentation of maintenance and its appropriate use during the preparation of the maintenance contracts,
 - e) that components, including spare parts, and materials are: used in a manner consistent with the maintenance orders and supplier's documentation; stored, handled and transported in a manner consistent with the maintenance orders and supplier's documentation; and in accordance with relevant national and international rules and requirements contained in the maintenance orders,
 - f) that adequate and appropriate facilities, equipment and tools are identified, designated, provided, registered and made available to deliver maintenance in accordance with the maintenance contracts and other applicable specifications, ensuring safe delivery of maintenance, ergonomics and health protection,
 - g) that entities in charge of maintenance (ECM) have procedures in place to ensure that measuring equipment, all facilities, items of equipment and tools are properly used, calibrated, stored and maintained;
- 11) control activities - a structured approach to ensure:
 - a) taking railway vehicles out of service in accordance to planned, conditional or corrective maintenance operations, or in the event of damage, or due to other needs,

- b) the necessary quality control measures,
- c) carrying out maintenance tasks in accordance with the maintenance orders and issuing of return to service documents covering any restrictions on use,
- d) that possible non-conformities in the application of the management system which could result in accidents, incidents, avoidable accidents or other dangerous occurrences are reported, investigated and analysed, and that necessary preventive action is taken in accordance with the Common Safety Method (CSM) on monitoring,
- e) periodic internal audits and a monitoring process in accordance with the Common Safety Method (CSM) on monitoring.

7. Entities in charge of maintenance of railway vehicles (ECM) and entities performing in whole or in part one or more of the maintenance functions specified in paragraph 3.2 to 4 shall be subject to certification by the President of UTK under the principles and in the mode specified in Article 7 of Regulation (EU) No 2019/779.

8. The President of UTK, by means of a decision, shall issue certificates, refuse to issue certificates, limit the scope of application, amend, suspend, revoke and extend the validity of certificates, if the conditions set out in Article 8 and Annex II to Regulation (EU) No 2019/779 occur.

9. In the course of the certification procedure referred to in paragraph 7, the President of UTK shall:

- 1) obtain evidence that the entity in charge of maintenance (ECM) has established a maintenance system to ensure that any railway vehicle for which it is in charge of maintenance is in a condition for safe operation;
- 2) assess the ability of the entity in charge of maintenance (ECM) to meet the basic elements set out in paragraph 6 and to apply them consistently;
- 3) for certification of maintenance workshops assess conformity with the basic elements set out in paragraph 6 as applicable to the relevant functions and activities that are certified.

10. In the proceedings referred to in paragraph 8, copies of the documents referred to in Article 7.1 of Regulation (EU) No 2019/779 shall be submitted.

11. Certificates issued in other Member States of the European Union to entities referred to in paragraph 7 shall be valid in the territory of the Republic of Poland if issued in accordance with Regulation (EU) No 2019/779.

12. Tasks of the entity in charge of maintenance (ECM) when:

- 1) railway vehicles are registered in a State other than a Member State of the European Union and maintained in accordance with the regulations in force in that State,

- 2) vehicles are operating on railway lines whose track gauge is different from 1435 mm and where fulfilment of the conditions set out in paragraph 1 is ensured by means of international agreements with States other than Member States of the European Union,
 - 3) freight wagons and passenger carriages are shared with third countries where the track gauge is different from 1435 mm
- railway undertaking which transports those railway vehicles on the territory of the Republic of Poland may do it after obtaining certificate from the President of UTK referred to in paragraph 8.

13. Certificates issued in accordance with paragraph 7 shall be issued for a period not exceeding 5 years and shall be renewable for a period not exceeding a further 5 years.

14. In the cases referred to in Article 3.4 of Regulation (EU) No 2019/779, compliance with the conditions set out in paragraphs 2 to 6 may be confirmed as part of the procedures for issuing, renewing or updating a single security certificate or security authorisation.

15. The President of UTK shall supervise the continued compliance with the requirements and assessment criteria referred to in Annex II to Regulation (EU) No 2019/779 after the award of the certificate of entity in charge of maintenance of a railway vehicle (ECM) and of the certificate for the maintenance function.

Article 23k. 1. A railway undertaking shall, before starting to operate a railway vehicle, check that that vehicle:

- 1) is authorised to place on the market and is duly registered;
- 2) is compatible with the route on which it will operate on the basis of the national register of infrastructure (RINF), relevant TSIs or other information provided free of charge by the operator;
- 3) is suitably integrated into the train set in which it is to operate, taking account of the safety management system and the TSI Traffic Operation and Management.

2. Where a railway undertaking, after the check referred to in paragraph 1, has justified concerns about the safe operation of the railway vehicle, it shall apply to the manager to allow additional checks on the railway vehicle.

3. In the case of an application referred to in paragraph 2, the manager shall enable additional tests to be carried out on the railway vehicle within 3 months of receipt of the application.

Article 24. 1. The entry into service of a railway vehicle shall be subject to the issue by an entity in charge of the maintenance of a railway vehicle (ECM) of the return to service referred

to in Article 2d of Regulation (EU) No 2019/779.

2. In the case of railway vehicles for which an entity responsible for maintenance of the railway vehicle (ECM) is not specified, the condition for starting their operation is the issue of a certificate of technical fitness by a railway undertaking or a manager, a railway siding user or an operator of metro infrastructure and providing transport services in metro. For historic vehicles, tourist vehicles and vehicles intended exclusively for local use, a certificate of technical fitness may also be issued by the keeper.

3. Certificates of technical fitness for railway vehicles engaged in technological transport and for multi-purpose and heavy construction machinery shall be issued by the operator or manager of such vehicles.

4. The validity of a certificate of technical fitness of a railway vehicle shall be set at a fixed period of time.

4a. (repealed)

5. By way of a regulation, the minister competent for transport shall define the manner of issuing and periods of validity of certificates of worthiness, determining the certificate model and the conditions that are necessary to obtain it.

Article 25. 1. By way of a regulation the minister competent for transport shall define a list of the documents which should be found in a railway vehicle in motion allowing to establish the technical condition of a railway vehicle and their models.

2. By way of a regulation the minister competent for transport shall define the manner in which the register of railway vehicles is kept and the manner of marking railway vehicles, taking into account international regulations.

Chapter 4a

Terms and Conditions of Assuring the Interoperability of the Rail system within the Territory of the Republic of Poland

Article 25a. 1. (repealed)

2. The rail system is divided into the subsystems:

- 1) structural:
 - a) infrastructure,
 - b) energy,
 - c) trackside control-command and signalling,
 - d) on-board control-command and signalling,

- e) rolling stock;
- 2) functional:
 - a) operation and traffic management,
 - b) maintenance,
 - c) telematics applications for passenger and freight service.

3. The detailed scope of the subsystems referred to in paragraph 2 is defined in TSI.

4. Structural subsystems are regarded to meet the essential requirements of the rail system when they are covered by an EC declaration of verification, confirming that the subsystem complies with the essential requirements of the rail system and with the requirements set out in the relevant European Union legislation, including the TSIs, and in the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met.

Article 25b.

1. The provisions of Article 4.1, 4.3, 4.9, 4.11, 4.14 and 4.24 to 27 and Chapters 4, 5 and 7 with the exception of Article 35, Article 74, Article 75 and Article 79 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems shall apply *mutatis mutandis* to the conformity assessment of subsystems, accreditation, authorisation and notification in this respect and to the checking of the fulfilment of the essential requirements of the rail system, as well as to the proceedings related to these subsystems.

2. The provisions of Article 4.1, 4.3, 4.9, 4.11, 4.14 and 4.24 to 27 and Chapters 4, 5 and 7 with the exception of Article 35, Article 74, Article 75 and Article 79 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance System shall apply to the assessment of conformity of interoperability constituents, accreditation, authorisation and notification in this respect and to the control of the fulfilment of essential requirements of the rail system as well as to the proceedings related to these interoperability constituents.

Article 25c. (repealed)

Article 25ca. 1. When conformity with the essential requirements of the rail system is assessed, subsystems and interoperability constituents shall be subject to:

- 1) certification,
- 2) examination,
- 3) verification of conformity with the essential requirements of the rail system
 - by a notified body.

1a. When assessing conformity of a subsystem with the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met, testing and certification of the subsystem shall be carried out by the body designated.

2. Subsystems or interoperability constituents for which documentation has been drawn up attesting conformity with harmonised standards or parts thereof, the references of which have been published in the Official Journal of the European Union, shall be presumed to conform to the essential requirements of the rail system covered by those standards or parts thereof if conformity has been assessed on the basis of the TSIs.

3. The CE marking shall be affixed to the interoperability constituent for which, after obtaining EC certification of conformity or suitability for use of the interoperability constituent, an EC declaration of conformity or suitability for use has been issued only if the obligation to affix the marking derives from the rules in force in the territory of the European Union relating to the essential requirements of the rail system.

4. The bodies referred to in Articles 25cb.3 and 25cc.8 shall keep the technical documentation regarding the subsystem or interoperability constituent and the progress and results of the conformity assessment performed throughout the service life of the subsystem or interoperability constituent.

5. EC verification of the subsystem referred to in Article 25a.2.1.a - c shall be compulsory prior to the submission of the application for authorisation for placing in service of that subsystem on the Union rail system.

6. After obtaining authorisation for placing in service of a subsystem, referred to in Article 25a.2.1.a - c, the President of UTK, during operation of subsystem, can check if safety requirements contained in TSI or in relevant national technical specifications and standardisation documents, application of which enables to meet essential requirements of rail system, are fulfilled within issuing of safety authorisation, uniform safety certificate or safety certificate, as well as checking that the requirements of the safety authorisation, the single safety certificate or the safety certificate are met, by applying the assessment and verification procedures as provided for in the TSIs or in the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met.

7. (repealed)

8. (repealed)

Article 25cb. 1. The notified body shall perform the EC verification of a subsystem against the essential requirements of the rail system ~~interoperability~~ specified in the regulations issued on the basis of Article 25ta.1.

2. The subsystem manufacturer or his authorised representative, the manager, the railway undertaking, the siding user, the keeper, the importer, the upgrading contractor, the investor or the contracting entity shall apply to a notified body of his choice to carry out EC verification of the subsystem against the essential requirements of the rail system on the basis of the TSI.

3. Manufacturer of subsystem or his authorised representative, manager, railway undertaking, railway siding user, keeper, importer, modernisation contractor, investor or contracting entity is obliged to inform President of UTK about launching procedure of EC verification of subsystem with essential requirements of rail system within 14 days after signing the contract with notified body.

4. The notified body shall carry out EC verification of the subsystem with the essential requirements of the rail system, including the interfaces of the subsystem in question with the system into which it is incorporated at the stage of:

- 1) design;
- 2) construction;
- 3) final testing of the subsystem.

5. At the request of the manufacturer of a subsystem or his authorised representative, the manager, the railway undertaking, the railway siding user, the keeper, the importer, the upgrading contractor, the investor or the contracting entity, the subsystem may be subdivided into specific parts or checked for conformity with the essential requirements of the rail system at specific stages of the EC verification procedure. Conformity with the essential requirements of the rail system may also be checked for a specific part of the subsystem at a specific stage of the procedure.

5a. Following the steps referred to in paragraph 5, when the essential requirements of the rail system have been met, the notified body shall issue an intermediate statement of verification.

5b. (repealed)

5c. (repealed)

6. The notified body shall take account of the intermediate statements of verification in the 'EC' verification procedure of the subsystem and shall check:

- 1) conformity of the subsystem with the design and intermediate statements of verification, if any;

- 2) that the statements of verification referred to in point 1 take account of the requirements laid down in the TSI;
- 3) conformity of the whole subsystem with the essential requirements of the rail system;
- 4) completeness and correctness of the EC declaration of conformity or suitability for use of the interoperability constituent and copies of the EC certificates of conformity or suitability for use of the interoperability constituent for all interoperability constituents incorporated in the subsystem;
- 5) whether structures and equipment included on the list referred to in Article 22f.14.2 which form part of the subsystem have been placed on the market in accordance with the provisions of the Act;
- 6) all elements of the subsystem not covered by intermediate statements of verification;
- 7) results of final subsystem tests.

7. After positive EC verification of the subsystem, the notified body issues an EC certificate of verification of the subsystem.

7a. Where the notified body has not checked conformity in whole or in part with all the TSIs that apply to the subsystem concerned, the certificate of EC verification of the subsystem shall indicate the precise reference to the TSI or the part(s) thereof with which conformity has not been checked.

7b. On the basis of the certificate of EC verification of the subsystem, the subsystem manufacturer or its authorised representative, the manager, the railway undertaking, the railway siding user, the keeper, the importer, the upgrading contractor, the investor or the contracting entity shall draw up an EC declaration of verification of the subsystem accompanied by the technical file as defined in regulations issued on the basis of Article 25ta.1.4. The entity referred to in the first sentence shall submit a copy of the technical file referred to in the regulations issued pursuant to Article 25ta.1.4 to the Agency, to the President of UTK or to the national safety authority of another Member State of the European Union upon request.

8. A notified body may issue a certificate of the EC verification of a subsystem for a series of subsystems or certain parts of such subsystems only in the event whereby it is permitted by TSI.

8a. In the event of changes made in the subsystem covered by a certificate of the EC verification, a notified body engaged to perform the EC verification of such subsystem shall perform only material and necessary examinations and tests of those parts of the subsystem that have been changed and their interfaces with unchanged parts of the subsystem.

9. (repealed)

Article 25cba. 1. Where, during the EC verification procedure of the subsystem, it is necessary to assess the conformity of the subsystem with the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met, that assessment shall be carried out by the designated body.

2. Where, in carrying out the conformity assessment referred to in paragraph 1, a notified body finds that an entity as referred to in Article 25cb.2 does not comply with the requirements set out in the relevant national technical specifications and standardisation documents the application of which enables the fulfilment of the essential requirements of the rail system, it shall request, in writing, the applicant to take corrective measures within a period of days 14 after receipt of the request in so far as it does not comply with those requirements and shall not issue a certificate of verification of the subsystem to the applicant. If the corrective measures are not taken within the deadline or do not result in the fulfilment of the requirements set out in the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met, the notified body shall refuse to issue a certificate of verification of the subsystem.

3. Where the subsystem is found to comply with the requirements set out in the applicable national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met, the notified body issues a certificate of verification of the subsystem.

3a. The issue of the certificate of verification of the subsystem by the designated body may be preceded by an intermediate statement of verification. The provisions of Article 25cb.5 and 5a shall apply *mutatis mutandis*.

4. Where, after issuing a certificate of verification of the subsystem, the designated body finds that the product no longer complies with the requirements set out in the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met, it shall withdraw or, if corrective measures can be taken to bring the product into compliance, suspend the certificate issued. In the case of suspension of an issued certificate, the designated body shall, within 14 days of receipt of the request, require the applicant in writing to take corrective measures.

5. Where the applicant has not taken corrective measures within the prescribed time limit, or where such measures have failed to bring the device into compliance, the designated body shall:

- 1) limit the certificate of verification of the subsystem issued, to the extent that the product does not meet the requirements set out in the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met;
- 2) withdraw the certificate of verification of the subsystem that has been issued if the product does not fully meet the requirements set out in the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met.

6. The refusal to issue, limitation, suspension or revocation of the certificate of verification of the subsystem shall be subject to appeal. Article 32 sections 2-4 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems shall apply to refusal to issue, limitation, suspension or withdrawal of the certificate of verification of the subsystem.

7. Where within the EC verification procedure of the subsystem the task of the notified body is carried out by a notified body, the assessment of conformity of the subsystem with the relevant national technical specifications and standardisation documents, the application of which enables the essential requirements of the rail system to be met, shall be included in the certificate of EC verification of the subsystem.

Article 25cc.

1. Interoperability constituents shall meet the following requirements:

- 1) shall be placed in service where they enable interoperability to be achieved within the Union rail system while meeting the essential requirements of the rail system;
- 2) they shall be used in their area of use and shall be properly installed and maintained;
- 3) they are accompanied by the EC declaration of conformity or suitability for use of the interoperability constituent with the essential requirements of the rail system as set out in the TSIs.

2. The President of the UTK shall not:

- 1) prohibit, restrict or hinder the placing on the market in the territory of the Republic of Poland of interoperability constituents making up the Union rail system that meet the essential requirements of the rail system;
- 2) require checks which have already been carried out as part of the procedure for assessing the conformity or suitability for use of an interoperability constituent, as specified in the provisions issued under Article 25ta.1.

3. In order to issue the EC declaration of conformity or suitability for use of an interoperability constituent, the provisions laid down in the TSI shall apply.

4. At the request of the manufacturer or his authorised representative, a notified body shall assess the conformity or suitability for use of an interoperability constituent with the essential requirements of the rail system. This assessment shall be based on the TSI corresponding to the subsystem to which the constituent belongs.

5. The EC declaration of conformity or suitability for use of an interoperability constituent shall state that the interoperability constituent meets the essential requirements of the rail system as defined in the TSI or in the European specifications. In the case of an interoperability constituent covered by other European Union legislation covering the essential requirements of the rail system for interoperability constituents, this declaration shall also meet the requirements set out in that legislation.

6. Where the manufacturer or his authorised representative does not draw up the EC declaration of conformity or suitability for use for an interoperability constituent, the obligation shall lie with the person who places the interoperability constituent on the market. The same obligations shall also apply to whomsoever assembles interoperability constituents of different origin or manufactures interoperability constituents for his own use.

7. Once the conformity of the interoperability constituent with the essential requirements of the rail system has been positively assessed, the notified body issues an EC certificate of conformity or suitability for use of the interoperability constituent to the manufacturer or to his authorised representative. On the basis of this certificate, the EC declaration of conformity or suitability for use of the interoperability constituent is drawn up.

8. The manufacturer of an interoperability constituent or his authorised representative or the entity who places the interoperability constituent on the market shall provide the President of UTK with the EC declaration of conformity or suitability for use of the interoperability constituent before placing it on the market in the territory of the Republic of Poland.

9. Where an interoperability constituent bearing the EC declaration of conformity or suitability for use does not comply with the essential requirements of the rail system, the President of UTK shall suspend the EC certificate of conformity or suitability for use of the interoperability constituent and inform the European Commission and other Member States of the European Union thereof.

10. Where an interoperability constituent covered by the EC declaration of conformity or suitability for use and placed on the market fails to comply with the essential requirements of the rail system, the President of UTK shall, by means of a decision:

- 1) restricts its field of application, or
- 2) prohibit its use, or
- 3) orders it to be withdrawn from the market.

11. When the President of UTK, taking into account compliance with the essential requirements of the rail system, finds, by decision, that the EC declaration of conformity or suitability for use of an interoperability constituent has not been drawn up properly, the manufacturer or his authorised representative established in the European Union or the person placing it on the market shall be required to bring the interoperability constituent into conformity with the TSI and to terminate the infringement under the conditions defined by the President of UTK.

12. Where the infringement referred to in paragraph 11 has not been remedied, the President of UTK, by decision:

- 1) restricts or prohibits the placing on the market of an interoperability constituent or
- 2) orders it to be withdrawn from the market.

13. In the cases referred to in paragraphs 10 and 12, the President of UTK shall immediately notify the European Commission, the Agency and the Member States of the European Union of the measures taken and state the reasons for his decision, stating in particular whether the non-compliance is due to:

- 1) inability to meet the essential requirements of the rail system;
- 2) incorrect application of European specifications where these have been used;
- 3) the inadequacy of European specifications.

14. The conformity assessment procedure referred to in paragraph 4 shall not be carried out in the case of spare parts for subsystems placed in service at the date of entry into force of the TSI.

Article 25d. 1. The President of UTK shall publish a list of appropriate national technical specifications and normative documents, application of which enables to meet the essential requirements of rail system, when:

- 1) not all aspects of the essential requirements of rail system are covered in the TSIs, in particular regarding open points;
- 2) a decision has been taken to grant a derogation from the application of a TSI;
- 3) there is a specific case as defined in the TSI;
- 4) an assessment shall be made of the technical compatibility between the railway vehicle and the railway network;

- 5) equipment and structure types are not included in the relevant TSI as interoperability constituents;
- 6) railway networks or parts thereof and vehicles are not covered by the obligation to apply the TSIs;
- 7) there is an urgent need to restore or maintain rail traffic following an accident, a natural disaster or other emergency situations.

2. The President of the UTK shall update the list referred to in paragraph 1 and forward it, with due justification, to the European Commission and the Agency:

- 1) each time the list of national technical regulations and standardisation documents is amended, or
 - 2) upon submission of new applications for derogation as referred to in Article 25f.1, or
 - 3) after publication of the TSI, or
 - 4) where the scope and subject matter of the national technical regulations or standardisation documents overlap with a newly issued or amended TSI
- by means of the information system referred to in Article 27 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

3. The list referred to in paragraph 1 shall be made available in the Public Information Bulletin on the website of the Office of Rail Transport.

4. The President of UTK shall not inform the Agency and the European Commission about regulations and restrictions of local character. If they are introduced, information about these rules and restrictions shall be placed in the National Infrastructure Register (RINF).

5. (repealed)

6. (repealed)

7. Where structural subsystems are placed in service on a rail network or part of a network that is not covered by a TSI, the EC verification procedures may be carried out. For the scope of the TSIs, the national technical specifications and standardisation documents referred to in paragraph 1 shall not apply.

Article 25e. 1. Managers, railway undertakings and railway sidings users may operate only structural subsystems referred to in Article 25a.2.1 a-c, for which the President of UTK has issued an authorisation of placing in service.

1a. The structural subsystem referred to in Article 25a.2.1 a-c may be placed in service where

- 1) is constructed and installed so as to meet the essential requirements of the rail system and to be compatible with the existing Union rail system of which it forms part;
- 2) the interoperability constituents of which it is constructed are properly installed and used for their intended purpose;
- 3) equipment and structures included in the list referred to in Article 22f.14.2 which form part of it have been authorised in accordance with the provisions of the Act.

1b. In the case of a structural subsystem referred to in Article 25a.2.1 a-c, which requires a new authorisation for placing in service after renewal or upgrading, that subsystem may be operated until the new authorisation is granted under the rules laid down in the safety management system of the manager.

2. On application of concerned contracting entity, manager, railway undertaking, railway siding user, manufacturer or his authorized representative, the President of UTK issues an authorisation for placing in service of structural subsystem referred to in Article 25a.2.1 a-c. The authorisation for placing in service of a structural subsystem referred to in Article 25a.2.1 a-c is refused by way of a decision.

2a. The authorisation for placing in service of a structural subsystem referred to in Article 25a.2.1 a-c shall be granted in accordance with the legal situation on the date of the application for authorisation.

3. The application referred to in paragraph 2 shall be accompanied by:

- 1) EC declaration of verification of subsystem;
- 2) documentary evidence of the compatibility of these subsystems with the system into which they are being integrated, based on the relevant TSIs, national rules and National Infrastructure Register (RINF);
- 3) documentary evidence of the safe integration of these subsystems, established on the basis of the relevant TSIs, national rules, the national register of infrastructure (RINF) and also the common safety methods (CSM).
- 4) copies of the documents certifying the placing in service of the equipment or structures included in the list referred to in Article 22f.14.2 which are part of the subsystem.

3a. (repealed)

3b. The documents referred to in paragraph 3 shall be drawn up in one of the official languages of the European Union. The President of UTK may require a part or parts of the documents referred to in paragraph 3 to be translated into Polish.

3c. The technical documentation attached to the application, referred to in paragraph 2, shall be provided by the applicant to the President of UTK in the form of an electronic document,

within the meaning of the Article 3.2 of the Act of 17 February 2005 the Act on Digitalisation of Operations of Entities Performing Public Tasks (Journal of Laws 2021, item 670, 952, 1005 and 1641), without the possibility of its modification.

4. Before authorising the placing in service of a structural subsystem referred to in Article 25a.2.1 a-c, the President of UTK shall check the documentation for completeness, relevance and consistency. In case of ERTMS trackside equipment, the President of UTK shall also check compliance with the conditions specified in the Agency's decision on approval of proposed technical solutions or with the outcome of the procedure referred to in Article 302 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Railway Agency and repealing Regulation (EC) No 881/2004.

4a. The President of UTK, within one month from the date of receiving the application, shall inform the applicant that the documentation is complete or shall call for the removal of defects.

4b. The President of UTK issues the authorisation for placing in service a structural subsystem referred to in Article 25a.2.1 a-c, not later than within 4 months after receiving a complete application.

4c. The applicant referred to in paragraph 2 may request the President of UTK to reconsider the case within one month from the date of receiving the decision referred to in paragraph 2.

4d. The UTK President shall consider the request for reconsideration within 2 months from the date of its receipt.

5. The President of UTK shall not prohibit, restrict or hinder the construction, putting into service and operating of structural subsystems referred to in Article 25a.2.1 a-c, which meet the essential requirements of the rail system. In particular, it may not require checks which have already been carried out:

- 1) as part of the procedure leading to the issue of the EC declaration of conformity or suitability for use of the interoperability constituent and the EC declaration of verification of the subsystem, as defined in the relevant TSI;
- 1a) as part of the procedure leading to the issue of a certificate permitting to operate a type for the equipment or structures included in the list referred to in Article 22f.14.2 which are part of the subsystem;
- 2) in other Member States of the European Union to check compliance with the same requirements under the same operating conditions.

6. The President of UTK may require additional checks when he finds that a structural subsystem referred to in Article 25a.2.1 a-c, covered by the declaration of EC verification of the

subsystem accompanied by technical documentation, does not comply with the regulations issued on the basis of article 25ta.1, and in particular does not meet the essential requirements of the rail system.

7. The President of UTK shall inform the European Commission about the check, referred to in paragraph 6, within 7 days from the date of the decision to carry it out and shall state the reasons for carrying it out.

8. When submitting the information referred to in paragraph 7, the President of UTK shall specify whether the fact of not achieving full compliance with the regulations issued on the basis of Article 25ta.1 and with the essential requirements of the rail- system, specified in TSI, is a result:

- 1) non-compliance with the essential requirements of the rail system as set out in a TSI or incorrect application of a TSI;
- 2) the inadequacy of the TSI in question.

9. The President of UTK prepares and makes available in the Public Information Bulletin on the website of the Office of Rail Transport guidelines concerning procedure of obtaining an authorisation of placing in service of structural subsystems, referred to in Article 25a.2.1 a-c, and list of required documents.

10. The President of UTK shall issue non-binding opinions to determine ways of demonstrating that the requirements of relevant national technical specifications and standardisation documents, the application of which enables to meet the essential requirements of the rail system, are met.

Article 25ea. 1. The manager, railway siding user, railway undertaking or investor shall submit to the Agency an application for approval of proposed technical solutions for the planned installation of ERTMS track-side equipment, if the scope of the planned work requires an authorisation for placing in service.

2. The application referred to in paragraph 1 shall be submitted before a procurement procedure is launched in order for the Agency to confirm that the solutions it provides comply with the relevant TSIs.

3. The application referred to in paragraph 1 shall be accompanied by:

- 1) the draft terms of reference or a description of the technical solutions envisaged;
- 2) documents confirming the conditions necessary for technical and operational compatibility between the subsystem and the units to be operated on the line or part of line, or on several lines, or on the network where the unit is intended to be used;

- 3) documents proving the conformity of the technical solutions envisaged with the relevant TSIs;
- 4) other relevant documents, including an opinion of the President of UTK on the technical solutions of ERTMS track-side equipment to be used, EC declarations of verification or EC certificates of conformity.

4. The application referred to in paragraph 1, together with the required documentation, shall be submitted to the Agency via a one-stop shop.

5. The President of UTK may issue an opinion referred to in paragraph 3.4:

- 1) to the entity referred to in paragraph 1 before submitting the application to the Agency;
- 2) at the request of the Agency, where an application is made to it by an entity referred to in paragraph 1.

6. In the case when, after the Agency's decision on approval of proposed technical solutions referred to in paragraph 1, the specification of essential terms and conditions of a contract is changed, the entity referred to in paragraph 1 shall immediately inform the Agency and the President of UTK thereof through a one-stop shop.

7. In the case referred to in Article 25f1.1, the entity referred to in paragraph 1 shall not submit a new application to the Agency as referred to in paragraph 1.

Article 25f. 1. The manufacturer of the subsystem or his authorised representative, manager, railway undertaking, railway siding user, keeper, importer, upgrade contractor, investor or contracting entity may apply to the President of UTK for derogation from application of TSI in case of:

- 1) publication of new TSIs over time:
 - a) the design or construction of a new subsystem or
 - b) upgrade or renewal of an existing subsystem or part of it– which are at an advanced stage of development or which are the subject of contractual obligations;
- 2) projects for renewal or upgrading of an existing subsystem, where the loading gauge, track gauge, space between track centres, or electrification system of that subsystem is not in conformity with the TSIs for that subsystem;
- 3) projects concerning the renewal, extension or upgrading of an existing subsystem - when the application of TSIs would compromise the economic viability of the project or the cohesion of the rail network in the territory of the Republic of Poland;

- 4) the need to restore urgently the cohesion of the rail network following a major accident or natural disaster when, for economic or technical reasons, it is not possible to apply the TSI in full or in part; in this case the derogation shall be granted for a period prior to the restoration of the rail network;
- 5) railway vehicles to or from countries other than Member States of the European Union in which the track gauge differs from that used on the main rail network within the territory of the Republic of Poland.

2. (repealed)

3. In the case referred to in paragraph 1, points 2, 3 and 5, the President of UTK, shall apply to the European Commission for an opinion on the application for derogation from the obligation to apply TSIs or their parts, he shall submit the documentation attached to the application, referred to in paragraph 1, and indicate the regulations which will be applied instead of the relevant TSI or its part, including, in particular, those contained in relevant national technical specifications and normative documents, the application of which enables to meet the essential requirements of the rail system.

3a. The President of UTK, in the case referred to in paragraph 1.1 and 1.4, shall issue a decision to grant a derogation from the obligation to apply the relevant TSI or a part thereof, if he considers that the circumstances indicated in paragraph 1.1 or 1.4, as appropriate, exist, or to refuse to grant such derogation, if he considers that the circumstances indicated in paragraph 1.1 or 1.4, as appropriate, do not exist. In case of granting a derogation, he shall notify the European Commission thereof.

4. Subsystem manufacturer or his authorised representative, manager, railway undertaking, railway siding user, keeper, importer, modernisation contractor, investor or contracting entity shall apply regulations specified by the President of UTK, referred to in paragraph 3, until the European Commission takes a decision.

5. (repealed)

6. In cases referred to in paragraph 1, points 2, 3 and 5, the President of UTK, by means of a decision, may:

- 1) grant a derogation from the obligation to apply a TSI, where the European Commission
 - a) has taken a favourable decision on the application no later than 4 months after the complete documentation has been submitted to it, or
 - b) has not taken a decision within 4 months of the date on which the complete file was forwarded to it, or
- 2) refuse to grant a derogation from a TSI:

- a) following a negative decision by the European Commission taken no later than 4 months after the complete documentation has been forwarded to it, or
- b) after it has been established that the circumstances referred to in paragraph 1, points 2, 3 or 5, as appropriate, do not apply.

7. Irrespective of submitting the application referred to in paragraph 1, the President of UTK shall forward to the European Commission within one year from the date of entry into force of each TSI the list of projects running in the territory of the Republic of Poland and being at an advanced stage of development.

Article 25g. 1. The President of UTK shall keep the National Register of Infrastructure (RINF) in electronic form according to the regulations issued by the European Commission on the common specification of the register of railway infrastructure.

2. The National Register of Infrastructure (RINF) shall collect data enabling the identification of railway sidings and specified parts of the railway infrastructure together with the indication of the characteristics and technical parameters of the structural subsystems of which they are composed.

2a. The parameter values recorded in the National Register of Infrastructure (RINF) shall be used in conjunction with the parameter values recorded in the authorisation for placing the railway vehicle on the market to check the technical compatibility between the railway vehicle and the railway network.

2b. The National Register of Infrastructure (RINF) may set out conditions and restrictions on the use of the railway infrastructure it contains.

3. Managers, railway undertakings and railway sidings users are obliged to submit to President of UTK data concerning railway infrastructure and railway sidings managed by them, which are published in the National Register of Infrastructure (RINF).

4. The minister responsible for transport shall specify, by regulation:

- 1) conditions, form and methods of providing the President of UTK with data to be published in the National Register of Infrastructure (RINF) by managers and railway sidings users;
- 2) how the National Register of Infrastructure (RINF) is to be maintained, including:
 - a) how registration data are entered, amended and deleted from the National Register of Infrastructure (RINF),
 - b) frequency of updating of registration data in the National Register of Infrastructure (RINF);

3) the design of the National Register of Infrastructure (RINF), the detailed scope of the register data contained therein and its functional and technical description, including a description of the register data format and requirements for its operation.

5. When issuing the regulation referred to in paragraph 4, account shall be taken of:

- 1) European Union rules on national registers of infrastructure;
- 2) the need to ensure consistency in terms of data content and format with registers kept by managers in other Member States of the European Union;
- 3) technical and operational parameters of railway infrastructure and sidings as listed in the National Register of Infrastructure (RINF).

Article 25ga. (repealed)

Art. 25gb. 1. With regard to a railway vehicle, which has obtained permission to place on the market, keeper shall apply to the President of UTK for registration of this vehicle in the European Vehicle Register (EVR), if the area of use of this vehicle includes territory of the Republic of Poland.

2. When the area of use of a rail vehicle placed on the market includes the territory of the Republic of Poland and the territory of at least one other Member State of the European Union, the keeper shall submit an application for registration of a vehicle in the European Vehicle Register (EVR) to the President of UTK or to the registration entity of another Member State of the European Union, the territory of which includes the area of use of a vehicle.

3. The vehicle keeper shall immediately inform President of UTK about any change of data with regard to the vehicles registered by him in the European Vehicle Register (EVR), including withdrawal of a vehicle from service or decision not to renew its registration.

4. In case of railway vehicles placed on the market in the territory of the Republic of Poland and subsequently operated in another Member State of the European Union, the President of UTK shall provide that Member State with a possibility to access data concerning the vehicle, including data concerning the keeper of a given vehicle, the entity in charge of maintenance of the vehicle (ECM) and restrictions on the use of the vehicle.

Article 25h. 1. The President of UTK, by means of a decision, shall authorise conformity assessment bodies with legal personality applying for notification, in accordance with the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems.

2. The President of UTK may, by decision, suspend the authorisation, limit its scope or withdraw the authorisation, in case of stating a breach of the authorisation conditions, referred to

in Article 28 paragraphs 1 or 3 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems, or non-compliance with the obligations referred to in Article 30i paragraphs 32-34 of this Act, depending on the nature and significance of the breach. Limitation of the scope, suspension or withdrawal of accreditation constituting the basis of authorisation shall result in limitation of the scope, suspension or withdrawal of authorisation respectively.

3. The President of UTK shall inform the President of the Office of Competition and Consumer Protection about the limitation or withdrawal of authorisation.

Article 25i. 1. The President of UTK shall notify authorised conformity assessment bodies using the electronic notification system developed and managed by the European Commission.

1a. The notification referred to in paragraph 1 shall be accompanied by all details relating to the conformity assessment activities, the conformity assessment module or modules, the product or products covered by the scope of the notification and the relevant accreditation certificate or other document confirming compliance with the requirements referred to in Article 28.1 and 3 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems.

2. Where the decision referred to in Article 25h.2 is taken, the President of UTK shall suspend the notification, limit its scope or withdraw the notification and inform the European Commission and the Member States of the European Union of the decision taken.

3. President of UTK shall provide, on request of the European Commission, information relating to the basis for notifications of authorised conformity assessment bodies and activities of notified bodies, including their fulfilment of requirements necessary for granting authorisations.

Article 25ia. 1. Notified bodies for the trackside control-command and signalling or on-board control-command and signalling subsystems shall participate in the activities of the ERTMS Group referred to in Article 29 of Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004.

2. The notified body shall inform its personnel of the activities referred to in paragraph 1.

3. The notified body shall apply the guidelines developed by the Agency, taking into account the outcome of the work of the ERTMS Group.

4. Where a notified body considers the guidelines referred to in paragraph 3 to be inappropriate or not applicable, it shall submit its comments to the ERTMS continuously

improvement group for discussion and shall not apply those guidelines until the observations raised have been addressed in the ERTMS continuously improvement group.

Article 25ib. The remuneration of the notified body's management and assessment personnel shall not depend on the number of conformity assessments carried out or on the results of such assessments.

Article 25ic. Notified bodies shall forward to the Agency EC certificates of verification of subsystems, EC certificates of conformity for interoperability constituents and EC certificates of suitability for use for interoperability constituents as soon as they have been issued.

Article 25id. Notified bodies shall participate in the work of the sectoral group of notified bodies established by the European Commission.

Art. 25ie. 1. The President of UTK, by means of a decision, appoints an entity to perform the tasks of a designated unit, if the requesting entity:

- 1) has legal personality;
- 2) meets the requirements set out in Article 28.1 paragraphs 2-6 and 9 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems;
- 3) has an accreditation certificate issued in accordance with the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems, relevant to the scope of designation applied for.

2. A notified body may be designated to carry out the tasks of a designated body.

3. In the decision referred to in paragraph 1, the President of UTK shall indicate the types of subsystems for which the designated body is authorised to assess conformity.

4. The President of UTK, by means of a decision, refuses to designate the entity referred to in paragraph 1.1, if the applicant entity does not have legal personality, does not meet the requirements specified in Article 28. 1 paragraphs 2-6 and 9 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems, or does not have an accreditation certificate issued in accordance with the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems appropriate for the scope of the requested designation.

5. The designated body may apply to the President of UTK to extend the scope of powers specified in the decision referred to in paragraph 1. The President of UTK, by means of a decision, extends the scope of powers of the designated body after ascertaining the fulfilment of the requirements specified in Article 28.1 paragraphs 2-6 and 9 of the Act of 13 April 2016 on

Conformity Assessment and Market Surveillance Systems and holding an accreditation certificate issued in accordance with the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems appropriate to the requested extension of the scope of powers.

6. In the event of finding violations of the requirements set out in Article 28.1 paragraphs 2-6 and 9 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems, not having an accreditation certificate issued in accordance with the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems appropriate to the scope of designation or not fulfilling the obligations referred to in Article 34 of Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems, the President of UTK, by way of a decision, suspends the designation of the unit, setting a deadline for the removal of violations constituting the basis for suspension.

7. The President of UTK, by means of a decision, limits the scope of authority granted to the body designated in the decision referred to in paragraph 1 or 5, in case of ceasing to meet the requirements set out in Article 28.1 paragraphs 2-6 and 9 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems and not having an accreditation certificate issued in accordance with the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems, to the extent not necessary to carry out conformity assessment of specified subsystems for compliance with relevant national technical specifications and standardisation documents, the application of which enables to meet the essential requirements of the rail system.

8. The President of UTK, by way of a decision, withdraws the designation of an entity in the case of:

- 1) the ineffective expiry of the deadline for remedying the breaches that gave rise to the suspension of the designation;
- 2) that certificates of verification of the subsystem are issued without the required procedures having been carried out;
- 3) written notification by the designated body that it is no longer carrying out those activities.

9. The President of UTK shall publish in the Public Information Bulletin on the website of the Office of Rail Transport a list of designated entities with their scope of rights.

10. The President of UTK shall inform the European Commission and the other Member States of the European Union of the designation of an entity to carry out the tasks of a designated body.

11. Article 25ia, Article 25ib, Article 25j, Article 25o and Article 25r and Article 30.2 and Article 33 and Article 34 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems shall apply to designated bodies.

Article 25j. 1. The President of UTK shall supervise the activity of notified bodies. The supervision over the activity of notified bodies shall also include conformity assessment activities entrusted to the entities referred to in Article 33.1 of the Act of 13 April 2016 on Conformity Assessment and Market Surveillance Systems

2. The President of UTK may entrust certain tasks of supervision referred to in paragraph 1 to the Polish Centre for Accreditation in consultation with its Director. The President of UTK shall be responsible for the tasks entrusted to the Polish Accreditation Centre.

3. The President of UTK shall ensure the confidentiality of the information received from notified bodies.

Article 25k. 1. In case of renewal or upgrade of structural subsystems referred to in Article 25a.2.1 a-c, the manager, railway undertaking, railway siding user, contracting entity, producer or his authorized representative shall submit to the President of UTK documentation describing the project. Within one month from the date of receiving the documentation, the President of UTK may request relevant supplementary information, setting a deadline not longer than one month for its submission. If the President of UTK does not demand supplementary information within one month from the date of receiving the documentation, the documentation shall be considered complete.

2. The President of UTK, within a period not longer than 4 months from the date of ascertaining the completeness of the documentation or from the date of expiry of the time limit for submitting the relevant supplementary information, according to par:

- 1) the overall safety level of the subsystem concerned may be adversely affected by the works envisaged;
- 2) the relevant TSIs require this;
- 3) required by the national implementation plans of the relevant TSI or
- 4) the values of the parameters on the basis of which the authorisation was granted are amended.

3. Where the file transmitted in accordance with paragraph 1 concerns the Control-Command and Signalling Track-side Subsystem, including equipment of the European Train Control System (ETCS) or the Global System for Mobile communication (GSM-R), the President of UTK shall, before issuing a decision on whether to require a new authorisation for

placing in service of a subsystem after its renewal or upgrading, request an opinion from the Agency.

Article 25l. 1. Where, as a result of checks, it is found that a subsystem or interoperability constituent does not meet the essential requirements of the rail system, the testing fees shall be borne by the body inspected.

2. The fees referred to in paragraph 1 shall be based on justified test costs taking into consideration the type of subsystem or interoperability constituent tested and the complexity and extent of the tests performed.

2a. The fees referred to in paragraph 1 shall be set by the President of UTK by means of a decision which may be appealed against.

3. The fees referred to in paragraph 1 shall constitute revenue for the State budget.

4. Where, as a result of checks, it is established that a subsystem or interoperability constituent meets the essential requirements of the rail system, the charges relating to the checks shall be borne by the national budget.

5. The provisions on enforcement proceedings in administration shall apply to the fees referred to in paragraph 1.

Art. 25m. 1. Where, as a result of control, the President of UTK finds that an interoperability constituent or subsystem does not meet the essential requirements of rail system, he may, by means of a decision, for a period not longer than 3 months, prohibit the exploitation of subsystem or interoperability constituent.

2. In case a procedure is initiated for exploiting a subsystem or interoperability constituent not complying with the essential requirements of the rail system, the President of UTK, by means of a decision, may extend the prohibition referred to in paragraph 1, until the procedure is completed.

3. Where the President of UTK finds that an interoperability constituent or subsystem meets the essential requirements of the rail system, he shall revoke the decision referred to in paragraph 1.

Art. 25n. 1. An entity, which has started exploitation of a structural subsystem without obtaining an authorisation for placing in service from the President of UTK or in relation to which the President of UTK issued an authorisation for placing in service of a subsystem, not complying with the essential requirements of the rail system and in relation to which the procedure has been initiated, shall be a party to the procedure.

2. A social organisation may request to be admitted to proceedings only if the entity which is a party to the proceedings is a member of that organisation.

Article 25o. 1. The President of UTK shall be entitled to audit notified bodies.

2. Control activities are performed upon presentation of an official ID card and delivery of an authorization issued by the President of UTK, which contains at least the following:

- 1) indication of the legal basis;
- 2) designation of the inspection body;
- 3) date and place of issue;
- 4) the name and surname of the official of the inspection body who is authorised to carry out checks and the number of his identity card;
- 5) the firm of the trader concerned;
- 6) definition of the material scope of the checks;
- 7) an indication of the starting date and expected date of completion of checks;
- 8) the signature of the person granting the authorisation, stating the position or function held;
- 9) an instruction on the rights and obligations of the trader to be inspected.

3. Persons authorized by the President of UTK to perform the inspection are entitled to:

- 1) access to the property, plant and premises of the notified body during working days and hours;
- 2) to ask for oral or written explanations or to produce documents relating to the notified activities;
- 3) request written or oral explanations on matters falling within the scope of the inspection within a specified time limit.

4. The inspection shall be carried out in the presence of the inspected person or a person authorised by him/her.

5. A report of the inspection shall be drawn up and submitted to the notified body inspected.

6. (repealed)

Article 25p. (repealed)

Art. 25r. 1. The manufacturer or his authorised representative, investor, importer, keeper, railway siding user, modernisation contractor, ordering entity, administrator, carrier and notified body shall submit to the President of UTK all necessary documents and materials and provide information to the extent necessary to establish whether the subsystem complies with the essential requirements of rail system and railway safety.

Article 25s. 1. Notified bodies assessing the conformity of interoperability constituents and subsystems shall provide the President of UTK and the other notified bodies with relevant information on suspended or withdrawn certificates of conformity, together with a justification.

2. Notified bodies shall publish on their website, annually, by the end of the first quarter:

- 1) list of requests to make:
 - a) to carry out EC verification of the subsystem and to request EC intermediate subsystem verification,
 - b) EC assessment of conformity or suitability for use of the interoperability constituent;
- 2) information on issued:
 - a) the EC certificate of verification of the subsystem and cases of refusal,
 - b) 264) intermediate statements of verification and cases of refusal,
 - c) EC certificates of conformity or suitability for use of an interoperability constituent and cases where these have been refused.

Article 25sa. If the European specifications in force do not meet the essential requirements of the rail system, the President of UTK shall inform the European Commission thereof.

Article 25t. (repealed)

Article 25ta. 1. The minister in charge of transport shall define, by way of a regulation, for the Union rail system:

- 1) the essential requirements of the rail system;
- 2) conditions for EC verification of the subsystem;
- 3) procedures for assessing the conformity of the subsystems with the relevant national technical specifications and standardisation documents, whose application enables the essential requirements of the rail system to be met, including the conformity assessment modules, and a list of the parameters to be checked in order to verify the technical compatibility between the rail vehicle and the rail network;
- 4) contents of the technical file to be attached to the EC declaration of verification of the subsystem.

2. In making the regulation referred to in paragraph 1, account shall be taken of:

- 1) TSIs in force;
- 2) the need to provide the notified body with all necessary information which is required for proper EC verification of the subsystem;

- 3) the requirements necessary to ensure the safe and uninterrupted movement of railway vehicles on the Union rail system;
- 4) the need to carry out conformity assessment procedures for subsystems based on conformity assessment modules;
- 5) the need to ensure the safe carriage of persons and goods;
- 6) the need to ensure consistency of the technical file accompanying the EC declaration of verification of the subsystem.

Chapter 4b

Working time of Railway Staff Who Perform Interoperable Cross-Border Services

Article 25u. 1. Working time of railway staff who perform interoperable cross-border services, i.e. train crew members delegated to perform interoperable cross-border services for a period longer than one hour daily shall be governed by the provisions of a Collective Agreement concluded between the European Transport Workers' Federation (ETF) and the Community of European Railways (CER) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector, enclosed as Annex to Council Directive 2005/47/EC of 18 July 2005 on the Agreement between the Community of European Railways (CER) and the European Transport Workers' Federation (ETF) on certain aspects of the working conditions of mobile workers engaged in interoperable cross-border services in the railway sector (OJ L 195 of 27.07.2005, p. 15).

2. The provisions of the Collective Agreement referred to in paragraph 1 shall also apply to working time of railway staff who perform interoperable cross-border services within cross-border passenger transport services, cross-border goods transport services within a distance not longer than 15 km from the border and transport services between border railway stations: Rzepin, Tuplice, and Zebrzydowice.

3. Cross-border passenger transport services referred to in paragraph 2 shall be understood to mean voivodship passenger transport services referred to in the provisions of the Act on Public Transport of 16 December 2010 and which are performed in the cross-border zone.

4. The provisions of the Collective Agreement referred to in paragraph 1 shall also apply to working time of railway staff performing interoperable cross-border services on trains that begin and end their routes within the territory of the Republic of Poland, and which use the railway infrastructure of another foreign state not stopping within its territory.

Article 25w. The provisions of the Labour Code shall not apply to the extent provided for in the Collective Agreement referred to in Article 25u.1, unless such provisions are more beneficial for the employee.

Chapter 4c

National register of train drivers and rail vehicle drivers

Art. 25x. 1. The President of UTK, for the purpose of performing the task referred to in Article 1.1a.13.7b, shall keep a national register of train drivers and rail vehicle drivers in a teleinformatic system which contains data on train drivers, rail vehicle drivers, candidates for train drivers and candidates for rail vehicle drivers.

2. The register referred to in paragraph 1 shall collect data:

- 1) in the case of the persons referred to in paragraph 1:
 - a) first name(s) and surname,
 - b) date and place of birth,
 - c) nationality and PESEL number, or, if the person has no PESEL number, the series, number and name of the identity document and the name of the country which issued the document,
 - d) concerning the competence to perform the activities referred to in Article 22d.1.b.1,
 - e) on training, periodic instructions and ad hoc instructions,
 - f) on the knowledge and skills tests carried out,
 - g) concerning medical certificates stating whether or not there are any health conditions for obtaining or maintaining a train driver's certificate or a train driver's licence, or for work as a train driver,
 - h) about the place of employment,
 - i) about the form of employment,
 - j) about the job;
- 2) in the case of train drivers and candidate train drivers, information from the register of train driving licences and the register of train driver's certificates as referred to in the Commission Decision 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 (OJ L 8, 13.1.2010, p. 17–31);
- 3) for train drivers, data concerning

- a) examinations carried out,
 - b) the documents issued authorising the holder to work on the railway station,
 - c) driving licences;
- 4) in the case of training centres that have undertaken training for the train driver's licence, the train driver's certificate or the test of knowledge and skills, data covering
- a) NIP or REGON number and company name,
 - b) the registration number referred to in Article 22a.1.2;
- 5) in the case of examiners who conduct examinations for train driving licences, train driving certificate examinations or knowledge and skills tests, data including
- a) the name(s) of the examiner,
 - b) the registration number of examiners referred to in Article 22be.1.

3. He shall enter the data referred to in paragraph 2 in the register referred to in paragraph

1:

- 1) the training centre - with regard to the data referred to in paragraph 2.1 e-f,
- 2) the railway undertaking or the manager - as regards the data from the register of train drivers' certificates and the data referred to in paragraph 2.1 d and h-j,
- 3) the entity authorised to issue the licence to drive a railway vehicle - with regard to the data referred to in paragraph 2.1 h-j and 2.3,
- 4) the body authorised to carry out medical examinations of candidates for train drivers, train drivers or driving instructors, for the data referred to in paragraph 2.1 g

– by means of the information and communication system supporting the register no later than 3 working days after the event giving rise to the obligation to enter the data occurs.

4. The President of UTK shall make available network services enabling integration of ICT systems handling the tasks performed by the entities referred to in paragraph 3 with the ICT system handling the register referred to in paragraph 1.

5. The data collected in the register referred to in paragraph 1 shall be kept:

- 1) for a period of 2 years from the date of completing the training for train driving licences, for persons referred to in Article 13.1a.1b.a;
- 2) until the date of expiry of the period referred to in Article 1.1a in the case of persons referred to in Article 1.13.1b.b.

Article 25y. 1. Data of the train driver, candidate train driver or train driver collected in the register provided for in Article 25x.1 shall be made available to the railway undertaking or

the manager for which the train driver, candidate train driver or train driver provides services or work, through the information and communication system of the register.

2. Data collected in the register referred to in Article 25x.2, shall be made available, to a person to whom these data refer, State Commission for Railway Accidents Investigation, State Labour Inspectorate and other entities, if they are necessary for the implementation of their statutory tasks in relation to ensuring safety of rail system. Data are provided in electronic form, using electronic means of communication, within the meaning of Article 2. 5 of the Act of 18 July 2002 on provision of services by electronic means (Journal of Laws of 2020, item 344). Data shall be made available upon a reasoned request.

3. The entities referred to in paragraph 1 shall be granted access to their data electronically by the driver, candidate driver or vehicle driver for the performance of the contract of employment or the civil law contract.

4. In case of discrepancies between the data collected in the register referred to in Article 25x.1 and the data contained in the PESEL register or the REGON register, the data collected in these registers shall be decisive.

5. The President of UTK updates the data collected in the Register referred to in Article 25x.1, including its modification or deletion from the Register, upon a justified request of the entity obliged to enter the data.

6. The minister in charge of transport, having obtained the opinion of the President of UTK, shall define, by way of an ordinance:

- 1) the way in which the register referred to in Article 25x.1 is to be kept and updated, including entering, amending, making available and deleting data,
- 2) technical and quality requirements for data to be entered in the register referred to in Article 25x.1

– having regard to the proper performance of the tasks under the Act by the various entities and to ensuring the high quality of the data contained in the register referred to in Article 25x.1, and its reference character.

7. The data referred to in paragraph 1 shall be subject, to safeguards to prevent any misuse or unlawful access or communication, consisting at least of

- 1) to allow only persons who have a written authorisation issued by the controller to process personal data;
- 2) a written obligation for persons authorised to process personal data to keep them confidential.

Chapter 5

(repealed)

Chapter 5a

National Railway Accident Investigation Committee

Article 28a. 1. An independent, permanent National Railway Accident Investigation Committee shall operate at the ministry competent for transport conducting investigations of serious accidents, accidents, and incidents, hereinafter “Committee”.

2. (repealed)

3. The Committee shall be composed of permanent members, including: its chairman, two deputy chairmen, a secretary, and other permanent members.

3a. The Committee member shall be authorised to conduct the proceedings referred to in Article 28e.1, Article 28e.2, and Article 28e.2a.

4. The Committee may also be composed of ad hoc members appointed from the list of the minister competent for transports by the Committee's chairman to participate in proceedings.

5. The provisions of the Labour Code shall apply to establishment and dissolution of an employment relation of the permanent members of the Committee subject to the provisions hereof. An employment contract shall be executed with a member of the Committee as of their appointment date.

6. The minister competent for internal affairs shall appoint and dismiss the Committee's chairman.

6a. The Committee's chairman shall direct the work of the Committee and represent the Committee externally.

7. The minister competent for internal affairs shall appoint and dismiss a deputy chairman and a secretary upon a motion of the Committee's chairman.

8. A member of the Committee shall be appointed and dismissed by the minister competent for internal affairs following an opinion of the Committee's chairman.

9. The minister competent for internal affairs shall:

- 1) dismiss a member of the Committee in the event of failure to meet the requirements referred to in referred to in paragraph 10;

2) after consultation with the Committee's chairman may dismiss a member of the Committee on a motion adopted by an absolute majority of the standing members of the Committee in a secret ballot.

9a. The Minister competent for internal affairs may dismiss a member of the Committee from the function of the chairman of the Committee on a motion adopted by an absolute majority of the standing members of the Committee in a secret ballot.

10. A member of the Committee may become a person who:

- 1) is a Polish citizen and enjoys full civil rights;
- 2) enjoys full legal capacity;
- 3) has not been sentenced for a criminal offence committed wilfully;
- 4) meets the requirements concerning education;
- 5) does not provide work or services for the manager, the railway undertaking or the railway siding user.

11. Membership of the Committee shall expire at the moment of death or acceptance of a resignation tendered to the minister competent for internal affairs.

12. The Committee may be composed of professionals in the field of:

- 1) railway traffic management;
- 2) design, construction, and maintenance of railway lines, railway junctions and stations;
- 3) safety and traffic control and communication devices;
- 4) railway vehicles;
- 5) railway power supply;
- 6) transport services of dangerous goods by rail.

13. Persons with university education, relevant licences, and having at least five-year practice in a specific area shall be considered as professional in a given field.

13a. The Committee shall make decisions in the form of resolutions.

14. By adopting a resolution referred to in Article 28l.1, the Committee members shall be guided by a principle of free assessment of evidence and not being bound by an order as to the content of adopted resolution.

15. (repealed)

16. Ad hoc members of the Committee shall be entitled to remuneration determined in a civil law agreement.

17. A member of the Committee may not act as a witness and expert before a court or another authority in relation to the cases run by the Committee.

18. Experts, and support staff shall participate in the work of the Committee as necessary.

19. Experts participating in the work of the Committee and drafting opinions and expert's reports shall be entitled to remuneration determined in a civil law agreement.

Article 28b. 1. The provisions of the Labour Code shall apply to the working time of a permanent member of the Committee subject to the provisions hereof.

2. A settlement period of the working time of the permanent members of the Committee shall not exceed 1 month.

3. Distribution of the working time shall be determined for a period not shorter than 2 weeks, and in the case of occurrence of a serious accident, an accident, or an incident it shall be done on an ongoing basis.

4. In the event of occurrence of a serious accident, an accident, or an incident, a daily amount of the working time of a member of the Committee may be extended to 16 hours.

5. A period of rest following extension of the working time referred to in paragraph 4 may not be shorter than 8 hours, the remaining time of rest being a difference between the number of hours worked and the number of hours of granted rest shall be given to a member of the Committee within 7 days from completion of work under an extended daily amount of the working time.

6. In the event of a serious accident, an accident, or an incident the rest referred to in Article 133 of the Labour Code may be granted within 7 days from the day for which such rest has been allocated.

7. A member of the Committee shall remain ready (on duty) outside normal office hours to undertake investigative work. Remuneration shall be due for the time on duty at home in the amount resulting from a number of hours being on duty multiplied by 30% of the hourly rate as provided for in the basic remuneration of a member of the Committee.

8. At the moment of notification of a necessity to precede to investigative work a member of the Committee shall be obliged to immediately undertake such work.

9. The travel time to the place of an event, counted from the moment of notification of a member of the Committee about a necessity to proceed to investigate a serious accident, an accident, or an incident until arrival to such place, and also the time of return from such place to the offices of the Committee or the place of residence shall be included in the working time.

10. Upon request of the Committee's Chairman, the minister competent for transport may delegate a member of the Committee to perform tasks outside the offices of the Committee. A period of delegation shall be determined by the Committee's chairman.

11. The provisions of Article 1515.2 the second sentence of the Labour Code shall not apply to the member of the Committee.

Article 28c. The provisions of Article 21–24, 26, 28, and 421 of the Act of 16 September 1982 on Employees in State Offices (Journal of Laws of 2013, item 269, of 2014, item 1199 and of 2015, item 1220).

Article 28d. 1. In part of the state budget for which he is an administrator, the minister competent for transport shall ensure funds for operations of the Committee and its support, including, in particular, for remuneration of its permanent members, ad hoc members, experts, support staff, and technical equipment, training costs, costs of translations/interpreting, maintenance of its web site, and also costs of expert's reports, examinations, analysis made to order of the Committee's chairman, costs of publication of materials, and shall ensure appropriate resources necessary for proper execution of the Committee's tasks.

2. Relevant organisational sections of the office providing support to the minister competent for internal affairs shall provide support to the Committee.

2a. The minister responsible for internal affairs shall issue to the member of the Committee a card.

2b. A member of the Commission shall be obliged to return the card on the date of his or her dismissal or the date of expiry of the card.

3. By way of a regulation, the minister competent for transport shall define a model of the card of a member of the Committee, having regard to data necessary for identification of such persons.

4. By way of an order, the minister competent for internal affairs shall determine the working rules of the Committee, the number of its permanent members, and the organisational structure, taking into account the nature of tasks performed by it and the necessity of ensuring appropriate resources necessary for proper execution of the Committee's tasks.

Article 28e. 1. The Committee shall conduct investigations after each serious accident.

2. The Committee may conduct proceedings regarding an accident or an incident that in slightly differing conditions would have been serious accidents causing discontinuation of operation of structural subsystems or interoperability constituents of the trans-European rail system.

2a. The Committee may conduct proceedings regarding an accident or an incident other than the one specified in paragraph 2, provided it has occurred in the circumstances justifying undertaking such investigation.

3. A decision on proceedings into a case of an accident or an incident referred to in paragraph 2 and 2a shall be taken by the Committee's chairman taking into account:

- 1) importance of an accident or incident;
- 2) if an accident or incident results in a series of accidents or incidents relating to the system as a whole;
- 3) impact of an accident or incident on railway safety at the Community level;
- 4) conclusions of managers, railway undertakings, the minister competent for transport, the President of UTK, or the Member States of the European Union.

3a. A decision on undertaking proceedings into a case of an accident or incident referred to in paragraph 2 shall be taken by the Committee's chairman not later than within a week from the day of obtaining information on their occurrence.

4. Within a week from taking a decision on commencement of the proceedings, the Committee shall inform the Agency accordingly, giving the date, time, and place of the event, as well as its type and consequences, including fatalities, casualties, and injuries suffered by them and materials damage.

Article 28f. 1. The scope of proceedings and the procedure shall be determined by the Committee depending on conclusions it intends to draw from a serious accident, an accident, or an incident to improve safety, taking into account the provisions of Article 28h, Article 28j, and Article 28k.

2. The proceedings shall be conducted by the Committee independently of penal or other proceedings conducted at the same time aimed at establishing guilt or liability. Such proceedings may not prevent or delay examination of a serious accident, an accident, or an incident performed by the Committee.

3. Proceedings conducted by the Committee shall not decide about a guilt or liability.

Article 28g. 1. Managers, railway undertakings, and railway siding users shall be obliged to immediately report serious accidents, accidents, and incidents to the Committee and the President of UTK.

2. The President of UTK shall inform the Committee about the accidents and incidents referred to in Article 28e.2 which, in his opinion, satisfy the premises specified in that provision.

Article 28h. 1. In the event of the proceedings referred to in Article 28e.1, Article 28e.2, or Article 28e.2a, the Committee shall as soon as possible proceed to:

- 1) examination of the existing condition of the railway infrastructure, including railway traffic control and signalling devices, and railway vehicles;
- 2) secure documentation related to a serious accident, an accident, or an incident;
- 3) secure data recorded by recording devices to have it examined or analysed;
- 4) examine the train crew and other railway staff involved in a serious accident, an accident, or an incident and other witnesses or shall have access to the results of such examinations.

2. After presenting the card of a member of the Committee, members of the Committee shall be authorised to:

- 1) access the venue of an accident or an incident, railway vehicles, their wrecks and content, and devices and buildings relating to railway traffic management;
- 2) access to reports from inspection and examination of bodies of fatalities in serious accidents;
- 3) access to on-board recorders and their readings, and also other records;
- 4) access to all information of importance for the proceedings, including that held by a manager, a railway undertaking, a railway siding user, and the Office of Rail Transport;
- 5) request from organisational units involved in a serious accident, an accident, or an incident assistance in the proceedings and provision of necessary materials and expert's reports;
- 6) hearing of persons;
- 7) access to the railway area;
- 8) ride in the cabin of self-propelled railway vehicles;
- 9) inspect managers, railway undertakings and railway siding users in terms of railway traffic safety as a result of the occurred event.

2a. Experts participating in the work of the Committee shall exercise their rights that the members of the Committee are entitled to as referred to in paragraph 2, after presentation of a relevant authorisation issued by the Committee's chairman within the extent specified in there.

3. Following completion of necessary examinations and activities the Committee shall allow a manager providing access to the railway infrastructure for railway traffic as soon as possible.

4. In order to ensure confidentiality of conducted examinations into a case of a serious accident, an accident, or an incident obtained by the Committee:

- 1) evidence from hearing of persons and other documents prepared or received by the Committee during examination of a serious accident, an accident, or an incident,
 - 2) records disclosing identity of persons heard during investigation of a serious accident, an accident, or an incident,
 - 3) information on persons who participated in a serious accident, an accident, or an incident that is particularly protected or private, including information on their health condition – may not be provided by the Commission to court proceedings authorities in criminal proceedings, or any other authorities conducting proceedings aimed at determining liability or guilt.
5. Provision of the evidence, documents, records, and information referred to in paragraph 4 may be done only for the purposes of preparatory, court, court and administrative, or other proceedings upon consent of a court, if it recognises that a superior social interest justifies their disclosure. The District Court in Warsaw shall be a competent venue to examine the case.

Article 28i. If necessary, the Committee may request entities conducting proceedings into a case of serious accidents, accidents, or incidents in other Member States of the European Union or the Agency to do expert's reports, technical examinations, analysis, and assessments.

Article 28j. 1. If it is not possible to establish in which state a serious accident, an accident, or an incident has occurred, or if it has occurred at a border or in its vicinity, the Committee shall agree with relevant entities conducting proceedings into a case of serious accidents, accidents, or incidents in other Member States of the European Union, which of the entities conducts proceedings or shall agree conducting proceedings in collaboration.

2. If proceedings are conducted by the Committee an entity with which agreements referred to in paragraph 1 have been made, shall have the right to participate in proceedings and to obtain its full results.

3. The Committee shall invite to proceedings entities conducting proceedings into a case of serious accidents, accidents, or incidents from the Member States of the European Union whose railway undertakings have been involved in a serious accident, an accident, or an incident.

Article 28k. 1. The Committee shall conduct proceedings in a manner that allows hearing participants, witnesses, and other interested parties and shall allow them access to the results of proceedings.

2. The Committee shall inform about the conducted proceedings and their results a relevant manager and a railway undertaking, the President of UTK, an authority conducting preparatory

proceedings, casualties, next of kin of fatalities, owners of damaged property, manufacturers, rescue services, and other interested parties, if possible, allowing them presenting opinions on proceedings and making remarks to the draft of reports.

Article 28l. 1. The Committee shall prepare a report from the proceedings containing recommendations in terms of improvement of safety and prevention of serious accidents, accidents, or incidents, adopting a resolution in that respect.

2. Recommendations concerning safety improvement and prevention of serious accidents, accidents, or incidents may not include determination of guilt or liability.

3. By way of a regulation, the minister competent for internal affairs shall define the content of a report from the proceedings into a case of serious accidents, accidents, or incidents, having regard to the consequences of serious accidents, accidents, or incidents.

4. A report on its proceedings shall be provided by the Committee to:

1) the Agency;

2) the entities referred to in Article 28k.2 and interested entities in other Member States of the European Union – upon their request.

5. The Committee shall announce a report from the proceedings immediately after its preparation, not later, however, than within 12 months from the event.

6. The Committee shall prepare an annual report on the Committee's work in the previous year, containing issued recommendations relating to safety improvement and actions undertaken in compliance with those recommendations. The report shall be sent to the Agency. The annual report shall be published and sent to the Agency not later than by 30th September.

7. The Committee shall publish the reports referred to in paragraph 1 and 6, by way of announcement, in the official journal of the minister competent for transport.

8. The recommendations referred to in paragraph 1 and 6 shall be sent to the President of UTK, and, in justified cases, to other interested entities, including entities in other Member States of the European Union.

8a. The President of UTK shall perform analysis of recommendations sent to him, taking into account the necessity of ensuring a systemic approach to safety management and minimising the risk in railway transport.

8b. The President of UTK may consider the recommendations and accept them for implementation or forward them in whole or in part for implementation to managers, railway undertakings, or other entities the operations of which affect railway traffic safety and railway operation safety, who are subject to regulations pursuant to the provisions of the Act. The

President of UTK shall inform the Committee about how its recommendations have been dealt with.

9. The President of UTK shall exercise supervision over implementation of the recommendations by the entities referred to in paragraph 8b.

9a. The entities referred to in paragraph 8b shall define a planned way of further proceedings with a recommendation, taking into account the criteria referred to in 8a, and in relevant cases, also the solutions accepted in their safety management systems or other management systems.

9b. The entities referred to in paragraph 8b shall inform the President of UTK about the planned way of dealing with a recommendation, indicating justification for it.

9c. If the planned way of dealing with a recommendation does not satisfy the criteria referred to in paragraph 8a, the President of UTK and the entities referred to in paragraph 8b, if necessary with engagement of the Committee, shall collaborate to work out an agreement defining another way of dealing with a recommendation.

9d. If no dealing with the recommendation referred to in paragraph 9a is undertaken or there is no agreement as to the way of its implementation, the President of UTK may, by way of a decision, impose an obligation of implementing the recommendation taking into consideration the criteria referred to in paragraph 8a and the solutions referred to in paragraph 9a. In the decision the President of UTK shall indicate the date and manner of implementing the recommendations.

10. The entities that the recommendations apply to shall every year present to the Committee and the President of UTK by 1st April information on the implementation of the recommendations and undertaken preventive measures and activities aimed at the implementation of such recommendations.

11. The President of UTK shall present to the Committee every year by 30th April information on implementation of the recommendations issued by the Committee in the previous year and about undertaken actions aimed at implementation of those recommendations.

Article 28m. 1. Proceedings into cases of accidents and incidents shall be conducted by a railway committee.

2. If the Committee conducts an investigation into a case of an accident or an incident referred to in Article 28e.2 or Article 28e.2a, a railway committee shall hand over the investigation to the Committee.

3. Railway committees shall in particular comprise representatives of railway undertakings or managers whose employees or railway vehicles have been involved in a serious accident, an accident, or an incident, or whose railway infrastructure is related to such serious accident, accident, or incident.

4. (repealed)

Article 28n. By way of a regulation, the minister competent for internal affairs shall define the manner of notification about serious accidents, accidents, and incidents, the manner of appointing a chairman of the railway committee, and the manner of proceedings and working by railway committees, having regard to a necessity of limiting consequences of serious accidents, accidents, and incidents.

Article 28o. (repealed).

Chapter 5b

Public Service Obligation

Article 28p. Public service contracts shall be concluded by competent authorities exclusively on the basis of and to the extent specified in the applicable transport plans.

Article 28pa. 1. The President of UTK shall issue an opinion on a draft transport plan for rail passenger transport services within 21 days from its delivery.

2. A competent authority shall provide the President of UTK with a draft transport plan before its approval or publication together with documentation that forms the basis for the assessment of conditions referred to in Article 12.2 of the Act on Public Service Obligation of 16 December 2010, to the extent specified by the President of UTK.

3. Failure to present a position within the prescribed time referred to in paragraph 1 shall be deemed as a positive opinion on the draft of a transport plan.

Article 28pb. 1. The President of UTK shall issue an opinion on a draft public service contract provision relating to rail passenger transport services in terms of its compliance with a transport plan within 21 days from the draft delivery.

2. A competent authority shall provide to the President of UTK for opinion a draft contract referred to in paragraph 1 some 30 days before a procedure for awarding a public contract is commenced pursuant to the provisions of the Act of 1 September 2019 on Public Procurement

(Journal of Laws of 2021, item 1129 and 1598) or before a procedure for conclusion of a concession agreement is commenced pursuant to the provisions of the Act of 21 October 2016 on Concession Agreement for Construction Works or Services (Journal of Laws of 2021, item 541) or before direct conclusion of the contract referred to in Article 22.1 of the Act of 16 December 2010 on Public Transport.

3. Failure to present a position within the prescribed time referred to in paragraph 1 shall be deemed as a positive opinion on the draft of an agreement on public service provision relating to rail passenger transport services.

4. An organiser of public railway transport shall provide to the President of UTK a photocopy of the public service contract relating to rail passenger transport services, certified as true to the original, within 7 days from its conclusion.

Chapter 5c (repealed)

Chapter 5d (repealed)

Chapter 6

Provision granting access to the Railway Infrastructure and Fees for Using the Railway Infrastructure

Article 29. 1. Granting access to the railway infrastructure shall consist of:

- 1) reviewing requests of an applicant for capacity allocation;
- 2) allocating the capacity to an applicant, including:
 - a) allocating a train path,
 - b) allocating the capacity for shunting or stabling of railway vehicles;
- 3) allowing a railway undertaking indicated by the applicant to use allocated capacity;

4) allowing a railway undertaking to use other services referred to in paragraph 1 of Annex II to the Act.

2. The capacity allocation shall consist in defining the time period reserved for the applicant to allow the movement or stabling of railway vehicles.

3. Allocation of capacity for shunting may be made by specifying the time frame during which the manager will allow the applicant to shunt.

Article 29a. 1. Railway undertakings shall be authorised to minimum access to the railway infrastructure with observance of a rule of equal treatment. Minimum access to the railway infrastructure shall comprise the services referred to in paragraph 1 of Annex II to the Act.

2. Railway undertakings from other Member States of the European Union shall enjoy minimum access to the railway infrastructure referred to in paragraph 1, respecting the principle of equal treatment.

3. A manager may limit minimum access to the railway infrastructure:

- 1) because of technical parameters of railway vehicles with the exclusion of a permitted speed;
- 2) by introducing a prohibition for railway vehicles carrying dangerous goods to enter tunnels.

Article 29b. The manager may, after consultation with interested parties, indicate sections of railway lines, on which specified type of service will be privileged, on condition that:

- 1) alternative paths for the remaining trains to run the service from the same departure station and to the same destination station will be provided, taking into account the substitutability of both paths in connection with the provision of freight or passenger services by the railway undertaking;
- 2) the possibility of using remaining capacity by remaining trains will be ensured;
- 3) the consent of President of UTK will be obtained.

Article 29c. 1. Regular rail passenger transport other than public service shall be carried out on the basis of a decision to grant open access or a decision to grant access only under conditions.

2. An applicant who intends to apply for the allocation of capacity in order to operate the service referred to in paragraph 1, on a route on which transport services are operated under a public transport service contract, shall inform thereof the relevant manager and the President of UTK by means of the standard notification form referred to in Article 4.2 of Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and

criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council (OJ L 294, 21.11.2018, p. 5) not later than within 18 months before the date of entry into force of the train timetable to which the application for capacity allocation will relate.

3. The President of UTK, not later than within 10 days from the date of receiving information about intention to carry out regular passenger transport, referred to in paragraph 2, shall submit this information to the organizer of public rail transport and to the railway undertaking which concluded the contract for providing public transport services on the route referred to in paragraph 2.

4. Within one month from the date of receiving information about intention to carry out regular passenger transport, referred to in paragraph 2, the organiser of public rail transport and the railway carrier, who concluded a contract for public transport services, as well as the administrator of relevant railway infrastructure may submit to the President of UTK of a contract for public transport services within the meaning of the provisions of Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council.

5. The President of UTK shall issue a decision on granting open access on a given route, if, as a result of a referred to in paragraph 4, he assesses that the proposed passenger service does not the economic equilibrium of the public transport service contract, or if no entity has requested such a.

6. If, as a result of the examination referred to in paragraph 4, the President of UTK assesses that the proposed passenger connection the economic equilibrium of the public transport service contract, taking into account the degree of the breach of the economic equilibrium of the contract, he issues a decision:

- 1) to grant access only under conditions,
 - 2) denying open access
- indicating the extent to which changes to the planned passenger service, in particular to frequencies, routes, intermediate stations or the schedule, would ensure fulfilment of the conditions for granting open access.

7. The decision to grant open access or to grant access only under conditions shall in particular specify:

- 1) the applicant, his/her seat and address;
- 2) the routes on which the services are to be operated;

- 3) the period for which the decision is issued;
- 4) the conditions and extent of use of rail infrastructure access.

8. A decision to grant open access or to grant access only under conditions shall be issued for a period not exceeding 5 years.

9. A party dissatisfied with the decision referred to in paragraphs 5 and 6 may apply to the President of UTK for a new examination of the case within 30 days from the date of receiving the decision.

10. President of UTK carries out periodical control of activity of railway undertakings performing transport services under open or limited access in the scope of fulfilling conditions of using access to railway infrastructure specified in decision on granting open access or in decision on granting access only under conditions.

11. The decision referred to in paragraphs 5 and 6.1 shall expire in the event of the liquidation or bankruptcy of the applicant to whom the decision was issued.

12. The President of UTK revokes the decision to grant open access or the decision to grant access only under conditions in the case of:

- 1) there is a flagrant breach of the conditions for use of access to the railway infrastructure laid down in that decision;
- 2) to cease operating for at least six months for reasons for which the applicant is responsible.

13. Paragraphs 1 to 12 shall apply to decisions on open access for high-speed passenger services.

Article 29d. 1. An Applicant shall acquire the right to apply for capacity upon conclusion of a capacity allocation agreement with the manager.

2. The agreement referred to in paragraph 1 shall specify in particular:

- 1) the rights and obligations of the manager and the applicant with respect to the allocated railway capacity;
- 2) the method and time limits for providing the manager with information on a railway undertaking entitled to use the capacity that will be allocated to the applicant.

3. The manager may specify in the agreement referred to in paragraph 1 requirements for financial guarantees for securing payment. Those requirements must be appropriate, transparent, and non-discriminatory.

4. For rail passenger services other than occasional services, the manager shall conclude an agreement for the allocation of capacity to the extent that the applicant has concluded a public service contract, has presented a statement of the organiser of public rail transport on his intention

to include trains in a public service contract or has obtained a decision to grant open access or a decision to grant restricted access.

5. An applicant which has concluded a framework agreement with a manager shall apply for capacity in accordance with the provisions of that agreement.

Article 29e. 1. If the applicant and the manager fail to reach an agreement on the provisions of capacity allocation, the President of UTK, upon request of the applicant, shall issue a decision on capacity allocation substituting the contract on capacity allocation.

2. The request referred to in paragraph 1 shall include a draft contract on capacity allocation and the current positions of the parties to the contract, indicating of those parts of the contract on which the parties have failed to reach an agreement.

3. The President of UTK shall issue a decision on capacity allocation determining in it the terms and conditions of the contract agreed by the parties and deciding on those parts in which the parties have failed to reach understanding.

4. The decision referred to in paragraph 3 shall be immediately enforceable.

5. The decision referred to in paragraph 3 shall expire in the event of conclusion of the contract on capacity allocation.

Article 29f. 1. The manager shall accept requests for capacity allocation for the period from the midnight on the second Saturday of December until the midnight on the second Saturday of December of next year, hereinafter referred to as “annual train timetable application period”.

2. The request for allocation of capacity for more than one railway network shall be submitted by the applicant with one of the managers to whose network the request applies.

3. A copy of the request referred to in paragraph 2 shall be forwarded by the manager who has received it for review to other managers concerned .

4. The manager who has received the request referred to in paragraph 2 shall, until capacity is allocated, collaborate with other managers on behalf of the applicant.

Article 30. 1. On the basis of received requests, the manager shall allocate the capacity.

2. On the basis of the request for allocation of a train route, the manager shall develop a train timetable.

3. The manager shall determine a procedure of development of the annual train timetable. The manager shall develop the annual train timetable on the basis of applications for allocation of train routes submitted in accordance with that procedure.

3a. In the case of congestion of railway infrastructure the manager shall take action to modify capacity, in particular concerning the use of a train path which, during a period of at least one month in the working timetable, has been used below the threshold size set out in the network statement referred to in Article 32.1, unless this is due to non-economic reasons beyond the control of the applicant.

4. In the event of disclosure of a section of the railway line with insufficient capacity, the manager shall immediately inform the President of UTK and the applicants who have applied for allocation of capacity on that section of the railway line. The obligation of notification exists also in the event of disclosure of a section of the railway line on which the manager envisages occurrence of capacity scarcity in next annual train timetable.

5. Insufficient capacity referred to in paragraph 4 is understood demand for capacity of a section of the railway line which cannot be satisfied in full in a given period of time, even after coordination of different requests for capacity allocation.

6. Within 6 months from the notification date referred to in paragraph 4, the manager is obliged to analyse the capacity of a section of the railway line with insufficient capacity and submit its results to the President of UTK.

7. The manager, within 6 months from the submission date of the results of the capacity analysis, after consultations with railway undertakings operating on the section of the railway line to which the analysis applies, the infrastructure manager shall develop a capacity enhancement plan and shall submit it to the President of UTK.

8. After working out the annual train timetable, the infrastructure manager, at the applicant's request:

- 1) may allocate the additional capacity;
- 2) may modify the allocated capacity;
- 3) accepts resignation from allocated capacity.

9. The application referred to in paragraph 8 concerning train performing rail passenger service, hereinafter referred to as "passenger train":

- 1) whose timetable is to be made public, the applicant shall be submit within a period prescribed by the manager, not later than 40 days before the requested date of travel;
- 2) providing occasional service, the application shall be submitted at least 7 days before the requested date of travel.

10. If the applicant submits a request for train path allocation later than 5 days before the scheduled launch of a train service, the manager may develop a simplified train timetable

specifying the train departure time from the departure station and the train journey duration without taking into account the time of stops resulting from other trains movements.

11. The infrastructure manager shall inform the applicant about the allocated capacity by determining the train timetable, the simplified train timetable, or period of time during which a railway undertaking indicated by the applicant may use the railway infrastructure.

12. The infrastructure manager may determine the dates for changing the train timetable. Changes of the train timetable shall be made not more frequently than every 30 days.

13. The infrastructure manager shall not disclose information provided to it during the process of capacity allocation that constitutes a business secret.

Article 30a. 1. If the manager refuses to review the request for capacity allocation or refuses to allocate capacity, the applicant may submit a complaint to the President of UTK.

2. The President of UTK shall issue a decision stating that the refusal referred to in paragraph 1 does not require any modification, requires modification or withdrawal

3. The manager shall modify the refusal or shall revoke the refusal in accordance with the guidelines specified by the President of UTK in the decision referred to in paragraph 2.

Article 30b. 1. The capacity allocated to the applicant may not be transferred to another applicant.

2. The capacity allocated to the applicant who is not a railway undertaking may not be used for execution of a type of transport services other than the one indicated in the request for capacity allocation.

3. The applicant may indicate various railway undertakings entitled to use the capacity allocated on the basis of individual applications.

4. An applicant who is a railway undertaking may not designate another railway undertaking to use the capacity allocated to it.

Article 30c. 1. The manager, at the time agreed with the applicant, shall present to a railway undertaking designated by the applicant a draft capacity usage agreement.

2. The railway undertaking shall have the right to use capacity allocated to the applicant after conclusion of the agreement on capacity usage with the infrastructure manager.

3. The agreement referred to in paragraph 2 shall in particular define the rights and obligations of the infrastructure manager and the railway undertaking with regard to the allocated capacity and the manner and conditions of its usage.

4. In the agreement referred to in paragraph 2 the manager may define the requirements concerning financial guarantees to secure payments. Those requirements must be appropriate, transparent, and non-discriminatory.

5. The agreement referred to in paragraph 2 shall be concluded for a period not longer than the duration of the annual train timetable.

6. Termination of the capacity usage agreement shall require consent of the President of UTK made by way of a decision.

7. The decision referred to in paragraph 6 shall be issued within one month from the day of receiving of the application by the President of UTK and it shall be immediately enforceable.

Article 30d. 1. If the railway undertaking and the infrastructure manager fail to reach an agreement regarding the provisions of the capacity usage contract, the President of UTK, upon request of the manager or the railway undertaking, shall issue a decision on capacity usage which shall substitute the capacity usage contract.

2. The request referred to in paragraph 1 shall include a draft capacity usage contract and the current positions of parties, indicating those parts of the contract the parties have failed to agree on.

3. The President of UTK shall issue a decision on capacity usage determining in it the terms and conditions of the contract agreed by the parties and making decisions in those parts in which the parties have failed to agree on.

4. The decision referred to in paragraph 3 shall be immediately enforceable.

5. The decision referred to in paragraph 3 shall expire in the event of conclusion of the capacity usage contract.

Article 30e.

1. The timetable of passenger trains shall be made public by the manager in the form of announcement on his website no later than 21 days before its entry into force.

2. The manager shall submit the timetable in electronic form to the relevant managers or operators of passenger stations no later than 21 days before the timetable enters into force.

3. The timetable for passenger trains stopping at a given passenger station or platform valid until its next scheduled change shall be made available to the public, in the form of announcements in a commonly accessible place, no later than 10 days before its entry into force:

- 1) in the railway station building or along the roads which form the infrastructure enabling passengers to reach the platforms, by the operator of the passenger station;
- 2) on the platform or on the access road to the platform by the operator.

4. Provisions of paragraphs 1 - 3 shall apply mutatis mutandis to changes to the timetable for passenger trains.

5. Provisions of paragraphs 1-4 shall not apply to a passenger train timetable for which the applicant specified in the application for train path allocation that the train timetable shall not be made public.

Article 30f. 1. The manager shall monitor trains punctuality.

2. In agreement with railway undertakings, the manager shall determine an amount of delays of trains with a breakdown of their reasons.

3. A railway undertaking or a manager who causes delay of a train, shall pay compensation to a railway undertaking whose train has been delayed.

4. The manager shall develop a plan for minimising disruption and improving performance of the railway network, hereinafter referred to as the 'performance scheme'. The manager shall agree with the railway undertakings the details of the performance plan, including:

- 1) the amount of train delay for which a train is considered to be running as scheduled;
- 2) the expected percentage of the number of the railway undertaking's trains which are not delayed for reasons attributable to the railway undertaking;
- 3) how to determine the amount of compensation due for train delay, the entity paying the compensation and the entity entitled to receive compensation, taking into account
 - a) share in the responsibility for causing the disruption,
 - b) ability to restore normal traffic conditions,
- c) average train delay levels in relation to the punctuality of passenger trains and other trains;
- 4) liability for acts which disrupt the operation of the railway network;
- 5) the method of bonus for the achievement by the railway undertaking of an annual average performance level higher than the one determined on the basis of the main parameters set under the performance scheme.

5. The manager shall coordinate the payment of the compensation referred to in paragraph 4.3.

5a. The manager shall without delay communicate to the railway undertakings a calculation of payments due under the performance scheme. These calculations shall cover all train delays for a period of no more than one month.

6. Once a year on its web site the manager shall publish average annual performance achieved by railway undertakings on the basis of main parameters agreed in the performance scheme.

7. The provisions of paragraphs 1–6 shall not apply to trains operated on the basis of requests for allocation of train routes referred to in Article 30.10.

Article 30g. The infrastructure manager shall develop procedures for resolving disputes relating to capacity allocation and the performance scheme that ensure impartiality of the parties involved and enable resolution of a dispute within 10 working days.

Article 30h. 1. Use of the railway track may not infringe the principles of railway traffic safety, safe transportation of persons and goods, environmental protection and protection of monuments.

2. In the event of disturbance to train movements caused by technical failure or accident the driver shall take all necessary steps to restore unhindered train movements. To that end he shall draw up a contingency plan indicating the bodies to be informed in the event of serious incidents or serious disturbance to train movements.

2a. When the disruption referred to in paragraph 2 may affect cross-border traffic on the railway infrastructure of other managers, the manager shall cooperate with them in order to restore cross-border traffic without disruption, including by informing them of the disruption without delay.

3. In urgent cases resulting in a reduction in capacity, access to allocated capacity may be limited without prior notice for as long as is necessary to remedy the effect to the extent required. The manager may, if he considers it necessary, require railway undertakings, against payment of a fee, to make available to him the resources which he considers are the most appropriate to restore undisturbed train movements without delay.

4. The manager shall immediately inform interested parties of the unavailability of capacity due to unscheduled rail infrastructure maintenance work.

5. The manager shall, upon request by the President of UTK, provide him without delay with information on the unavailability of capacity as a result of unscheduled work on the maintenance of railway infrastructure.

Article 31. 1. Upon justified request of the applicant, the manager may conclude a framework agreement. A framework agreement shall determine in particular indicative capacity parameters within which train paths will be allocated to the applicant and the deadline for requests for capacity. The framework agreement does not specify train paths.

2. The framework agreement shall be concluded for a period not longer than 5 years and may be renewed for another 5-year periods.

3. Conclusion of the framework agreement for a period longer than 5 years shall require a detailed justification by the applicant with the existing, long-term commercial contracts or incurred or planned investments or risk.

4. Framework agreements may be concluded for a period of 15 years in exceptional, justified cases, for services using the railway infrastructure requiring long-term investments.

4a. Framework agreements concluded for a period longer than 15 years may be concluded only in exceptional cases, especially when services are provided with the use of the railway infrastructure requiring long-term investments on a large scale and when such investment are subject to contractual obligations, including a multi-year depreciation plan.

5. Provisions of framework agreements may not prevent other railway undertakings from using a given railway line.

6. Draft framework agreement after initialling by the parties shall be presented by the manager for the approval by the President of UTK.

7. The President of UTK shall approve a draft framework agreement by way of a decision. The President of UTK shall refuse approval of a draft framework agreement which does not meet the requirements referred to in paragraphs 2–5.

8. The framework agreement may be concluded following approval of its draft by the President of UTK.

9. The manager shall make available to the interested entity, upon its request, with the provisions of the framework agreement while observing business secrets.

Article 32. 1. The manager shall prepare a network statement, hereinafter referred to as "network statement", setting out the rules for the provision of managed infrastructure and service facilities connected to the railway network of the manager, in particular

- 1) procedure for the submission and examination of requests for capacity;
- 2) the characteristics of the railway infrastructure to be made available and information on the conditions of access to it;
- 3) the price list referred to in Article 33.13;
- 4) the conditions of use of the railway infrastructure made available;
- 5) the scope of services relating to the provision of railway infrastructure and the conditions governing their provision.

1a. At least once a year, PLK S.A. ensures that interested railway undertakings and applicants, and, if necessary, also representatives of entities using railway freight or passenger

transport services and state authorities and self-government bodies, have an opportunity to submit written opinions on the content of network statement.

1b. PLK S.A. announces on its website:

- 1) the bodies or authorities concerned have been consulted on the guidelines on how to submit the opinions referred to in paragraph 1a;
- 2) a summary of opinions referred to in paragraph 1a, together with information on actions taken in relation to the submitted opinions, and forwards this summary and this information to the President of UTK for information.

2. The manager shall ensure that the rail infrastructure characteristics laid down in the network statement are updated at least once a year in accordance with the data contained in the national register of infrastructure.

3. The network statement shall be published in the customary manner no later than one month⁴ in advance of the deadline for requests for capacity.

4. The network statement shall be published in at least two official languages of the European Union, including Polish.

5. The introduction of provisions in the network statement concerning railway lines of defensive importance requires the agreement of the minister competent for national defence.

Article 33. 1. The infrastructure manager shall develop a system of collecting fees for a train annual timetable application period pursuant to the same rules as apply to all applicants for the entire railway network.

2. The manager may collect charge applicants with a fee for processing a request for capacity allocation, if no capacity has been allocated on the request, with the exclusion of a situation when capacity has not been allocated due to reasons attributable to the manager. The fee shall be determined as a quotient of the costs incurred by the manager for processing of requests for capacity allocation and the number of requests submitted in the last year that has ended.

3. The infrastructure manager shall charge a booking fee from the applicant for failure to utilise the allocated capacity, if the applicant does not indicate a railway undertaking who is to use the allocated capacity or a railway undertaking indicated by the applicant fails to conclude with the manager an agreement agreed with the applicant. The fee shall be determined as a percentage share of the fee that a railway undertaking would have incurred for utilisation of the capacity allocated to the applicant. The manager shall not collect a fee if a railway undertaking has applied to the President of UTK for issuance of a decision on capacity utilisation.

4. The infrastructure manager shall collect a fee from a railway undertaking for services performed under minimum access to the railway infrastructure related to a completed train passage, hereinafter “basic fee”.

5. The basic fee shall be calculated as a product of the train's run and a unit state determined for a train run over a distance of one kilometre.

6. Unit rates of the basic fee shall be determined by the manager at direct costs that the manager incurs as a result of the train passage. To recover all of the incurred costs, the manager may increase rates if he demonstrates that the market situation provides for that.

7. Together with railway undertakings the manager may develop a manner of lowering the basic fee depending on the implementation of the performance scheme by a railway undertaking.

8. The infrastructure manager may collect a fee from railway undertakings for services performed under minimum access to the railway infrastructure related to the performance of manoeuvres, hereinafter “manoeuvre fee”.

9. Unit rates of the manoeuvre fee shall be determined by the manager at direct costs that the manager incurs as a result of execution of manoeuvres.

10. The infrastructure manager shall determine the maximum stoppage time of railway vehicles under minimum access to the railway infrastructure not shorter than 2 hours for which no fees are collected for the allocated capacity for the purpose of stoppage of railway vehicles.

11. The infrastructure manager may collect the booking fee from railway undertakings for failure to utilise the allocated capacity.

12. The infrastructure manager may collect fees for services referred to in the network statement other than those listed in Annex 2 to the Act, which the manager shall perform when their performance shall be requested by a railway undertaking in the submitted request.

13. The infrastructure manager shall develop a draft of the pricelist defining:

- 1) a fee for processing a request for capacity allocation referred to in paragraph 2;
- 2) the manner of determining a unit rate for the basic fee on the basis of partial fees and adjustment factors together with determination of their values;
- 3) the manner of determining a unit rate for the manoeuvre fee;
- 4) the manner of determining the booking fees referred to in paragraph 3 and 11;
- 5) the manner of determining fees for stoppage of railway vehicles;
- 6) fees referred to in paragraph 12 or the manner of their determination.

14. After the pricelist draft referred to in paragraph 13 has been prepared, the infrastructure manager shall immediately include it in the network statement and, not later than within 9 months before the start of a train annual timetable application period, shall submit it for approval to the

President of UTK in part relating to the manner of determining the unit rate for the basic and manoeuvre fee comprising calculation of the amounts of the applied partial rates and indicators.

15. Within 90 days from receipt of the pricelist draft referred to in paragraph 13, the President of UTK by way of a decision shall approve it in the part concerning the manner of determining the unit rate for the basic and manoeuvre fee or shall refuse its approval in the event of establishing its non-compliance with the applicable regulations.

16. The manager shall be obliged to update the network statement with regard to the pricelist the draft of which has been approved by the President of UTK within 7 days from receipt of the decision of the President of UTK approving the pricelist draft.

17. Failure to issue the decision referred to in paragraph 15 within the prescribed time shall be tantamount to a decision approving the pricelist draft referred to in paragraph 13. In such event, the manager shall be obliged to update the network statement with regard to the pricelist the draft of which has been approved within 7 days from the expiry of the date on which the decision referred to in paragraph 15 should have been taken.

18. In the event of refusal to approve the pricelist draft referred to in paragraph 13, the manager shall take a decision on:

- 1) applying the pricelist applicable from the previous train annual timetable application period in the train annual timetable application period to which the pricelist draft related, or
- 2) development of a new pricelist draft and its resubmission for approval in the manner referred to in paragraph 15.

19. In the event referred to in paragraph 18.1, within 30 days from the delivery of the decision of the President of UTK refusing approval of the pricelist draft referred to in paragraph 13, the manager shall:

- 1) inform the President of UTK about its decision;
- 2) update the network statement with regard to the pricelist referred to in paragraph 13.

20. In the event referred to in paragraph 18.2, within 30 days from the delivery of the decision of the President of UTK refusing approval of the pricelist draft referred to in paragraph 13, the manager shall:

- 1) present to the President of UTK a correct pricelist draft referred to in paragraph 13;
- 2) update the network statement with regard to the pricelist draft.

21. If the decision of the President of UTK on approval of the corrected pricelist draft referred to in paragraph 20.1 is taken within a period later than 30 days before the start of the train annual timetable application period:

- 1) the pricelist the draft of which has been approved shall become effective 30 days from the date on which the decision has been taken;
- 2) from the effective date of a new pricelist the pricelist applicable in the previous train annual timetable application period shall be applicable.

22. The manager may take a decision on abandoning development of the pricelist draft referred to in paragraph 13, or its part, and on application of a corresponding part of the price list applicable in the previous train annual timetable application period in the next period of the train annual timetable. In such case, the manager shall:

- 1) inform the President of UTK about its decision;
- 2) update the network statement with regard to the pricelist referred to in paragraph 13.

23. Budgetary military units shall be exempt from the basic and manoeuvre fees on railway lines of military importance only.

Article 34. 1. The basic fee may be increased during a period of overcrowding on sections of railroad having insufficient capacity.

1a. The manager shall cease collecting the increased fees referred to in paragraph 1, if:

- 1) it has failed to submit a plan to increase capacity increasing, or
- 2) fails to perform actions specified in the plan to increase capacity.

1b. In the event referred to in paragraph 1a.2, upon consent of the President of UTK, a manager may continue collecting the increased fees for a period not longer than 3 years, if:

- 1) the plan of capacity increasing may not be implemented due to reasons not attributable to him, or
- 2) any options of capacity increasing may not be implemented due to economic reasons.

2. The manager may grant allowances for the basic fee provided that their financing is ensured. Allowances may be granted for a limited period and over a specific section of the railway infrastructure for the purpose of:

- 1) developing new railway services, or
- 2) using railway lines of a significant level of capacity non-utilisation.

2a. Allowances shall be granted to all railway undertakings pursuant to uniform terms and conditions.

2b. If allowances are introduced for similar services, similar systems of allowances shall be introduced for them.

3. (repealed)

4. (repealed)

Article 34a. 1. The manager and the applicant may, under the supervision of the President of UTK, negotiate on charges for access to railway infrastructure.

2. The manager shall inform the President of UTK about the commencement of negotiations referred to in paragraph 1.

3. The President of UTK may require the manager and the applicant to provide explanations and documents relating to the negotiations referred to in paragraph 1, and may participate in the negotiating meetings of the manager and the applicant.

4. The President of UTK shall be entitled to give an opinion on the negotiations. The opinion shall be delivered to the administrator and the applicant.

5. After negotiations have been concluded, the manager shall inform the President of UTK of the outcome.

Article 35. 1. The minister competent for transport, by way of a regulation, shall define:

- 1) the procedure of submitting and reviewing applications for capacity allocation referred to in Article 29d.1, in particular information that should be included in applications for capacity allocation and conditions for recognising that a section of a railway line has insufficient capacity;
- 2) the procedure of introducing changes to the train timetable;
- 3) the scope of capacity analysis referred to in Article 30.6;
- 4) the scope of the plan of capacity enhancement referred to in Article 30.7;
- 5) the terms and conditions of using the railway infrastructure by railway undertakings;
- 6) the method of classifying train delays;
- 7) the maximum train delay referred to in Article 30f.4.1, taking into account the division into passenger trains and other;
- 8) the minimum percentage share number of trains of a railway undertaking that shall not be delayed for its fault, referred to in Article 30f.4.2, taking into account the division into passenger trains and other;
- 9) the method of calculation of charges referred to in Article 33.2–4, 8, and 11, and the minimum rates of charges referred to in Article 33.2 and Article 33.3;
- 10) the manner of increasing the basic charge;
- 11) the manner of granting discounts on the basic charge;
- 12) the scope of issues which particularly require regulation by the framework agreement;
- 13) the manner of how development of the network statements and the scope of information included in them.

2. By issuing the regulation referred to in paragraph 1, the minister competent for transport shall take into account:

- 1) the necessity of ensuring a non-discriminatory treatment of applicants, especially in terms of the network statement;
- 2) a different way of dealing with requests for capacity allocation in the event of development of the train timetable and its change;
- 3) a different way of dealing with requests for capacity allocation in annual train timetable and with other requests;
- 4) the need of best utilisation of the existing capacity;
- 5) the need of conducting maintenance works resulting in capacity restrictions;
- 6) the time necessary for the development of the train timetable;
- 7) the necessity of special treatment of international train paths at the stage of capacity allocation;
- 8) the special nature of passenger trains, including those providing public services;
- 9) the necessity to take remedial actions in the case of a railway with capacity scarcity;
- 10) the need to verify by the manager the railway undertaking authorisation to perform transport services;
- 11) the needs to determine a party that is to bear the consequences for a train delay;
- 12) the need to ensure that the system of charges collected for a train passage shall be adequate to the costs caused by the train movement;
- 13) the need of making the amount of the booking fee dependent on a possibility of utilising again the capacity that a given applicant has abandoned.

Article 35a. 1. The infrastructure manager may take a decision not to apply the provisions of Articles 29–35, where:

- 1) the railway network is allocated only for performing voivodeship or local transport services;
- 2) the railway infrastructure makes up an element of the service facility;
- 3) the railway infrastructure has been recognised as local railway infrastructure which has been considered as not having strategic importance for the operation of railway market in a decision issued by the European Commission.

2. The manager may take a decision on applying the provisions of Chapter 6 concerning railway undertakings to entrepreneurs performing transport services on the railways referred to in Article 17e.2.

3. If the manager takes the decision referred to in paragraph 1 or the decision referred to in paragraph 2, it shall immediately inform the President of UTK accordingly.

Article 36. The provisions of Article 29–35 shall not apply to the railway infrastructure:

- 1) intended exclusively for passenger transport services performed by a railway undertaking who simultaneously manages that infrastructure without making it available to other undertakings;
- 2) that exists solely for use by the owner for its own freight operations;
- 3) comprising railway lines having the track width other than 1435mm.

Chapter 6a

Service Facilities

Article 36a. 1. Provision access to a service facility hereinafter referred to as the “facility” consists in enabling railway undertakings, upon their request, to have access to railway tracks in this facility and to use the services referred to in paragraphs 2 and 3 of Annex II to the Act, for the provision of which the facility has been specially designed. If the specific nature of the services provided so requires, the provision of the facility shall also include the use of the facility.

2. The facility manager shall draw up the facility statement specifying whether the facility is intended to be made available. The facility manager providing the services referred to in paragraph 2 of Annex II to the Act, may determine that the facility is not intended to be made available only when the facility is not in use.

3. Railway undertakings shall be entitled to access to the facilities provided, including the railway track at those facilities and the services provided therein, as referred to in paragraph 2 of Annex II to the Act, on an equal and non-discriminatory basis.

4. The authorisation referred to in paragraph 3 shall also be granted to railway undertakings from other Member States of the European Union for the facilities located on the railway network to which they are authorised for access.

5. If the facility has not been used for the provision of the services referred to in paragraph 2 of Annex II to the Act for a period of at least two consecutive years and the railway undertaking has expressed interest in having access to it for a period of at least two consecutive years and the railway undertaking has declared to the facility manager or operator its interest in access to that facility, the owner of the facility shall publicise that the facility is for lease or rent, in whole or

in part, in order to provide services to the extent in which the railway undertaking has declared its interest in access to that facility, unless the facility manager or operator demonstrates that the use of the facility by the railway undertaking is not possible due to ongoing restructuring proceedings.

6. If a facility operator, hereinafter referred to as “operator”, provides the services referred to in paragraph 3 of Annex II to the Act, it shall provide them on equal and non-discriminatory basis.

Article 36b. 1. The operator shall determine the manner of applying for access to the facility and the dates for submission of applications.

2. The operator shall consider the applications referred to in paragraph 1 within a period not longer than 14 days from the date of receipt of the application by the operator. The operator may apply a longer period for reviewing applications subject to the consent of the President of UTK.

3. The operator shall undertake any actions to consider all submitted applications referred to in paragraph 1, however it shall not be obliged to incur any expenditures that are necessary for that purpose.

4. The operator may refuse a railway undertaking access to the facility to if it demonstrates that:

1) the railway undertaking may perform a planned rail transport service under economically comparable conditions using another available facility with the exception where an undertaking informs the operator that an operator of the designated facility has refused it the access, or

2) positive outcome of the request's review would involve a necessity of incurring by the operator expenditures referred to in paragraph 3, or

3) because of lack of sufficient capacity, a positive review of the application would prevent that operator from satisfying justified own needs or performing obligations under agreements previously concluded with other railway undertakings.

5. In the case referred to in paragraph 4, the operator shall justify in writing its refusal and deliver it to the railway undertaking.

6. In the case referred to in paragraph 4.1, in the refusal referred to in paragraph 5, the operator shall indicate another facility which will enable the railway undertaking to perform a rail transport service under economically comparable conditions.

Article 36c. 1. The railway undertaking shall acquire the right to use the services provided in the facility after concluding an agreement with the operator specifying in particular the rights and obligations of the operator and the railway undertaking relating to the provided services.

2. If the operator is a railway infrastructure manager made available under the terms and conditions described in Chapter 6, it may conclude with the railway undertaking one agreement instead the agreement referred to in Article 30c.2 and the agreement referred to in paragraph 1, containing all the provisions required under those agreements.

3. The operator shall not disclose information which constitutes business secrets obtained in relation to making available of the facility.

Article 36d. 1. If the operator refuses the access to facility in violation of the provisions of Article 36b, the railway undertaking may lodge a complaint to the President of UTK.

2. In the case referred to in paragraph 1, the President of UTK may, by a decision order the operator to provide the railway undertaking with access to the facility in specified time, , f he states infringements of the provisions of Article 36b.

Article 36e.

1. The operator shall determine the level of charges to be levied by railway undertakings for access to the facility.

2. The charges referred to in paragraph 1 shall not exceed the costs to the operator of making the facility available, plus a reasonable profit, understood as a rate of return on own capital which takes account of the operator's risk, if any, of no more than 10% per annum.

3. (repealed)

Article 36f. 1. The operator shall develop the rules of access to the service facility, hereinafter referred to as “service facility statement”, in which it shall determine in particular:

- 1) facilities to which it applies and their types;
- 2) the scope of access to facilities for which the operator is responsible;
- 3) the procedure for making facilities available, including the time limit for submission and scope of information to be contained in the application referred to in Article 36b.1;
- 4) detailed technical conditions of access to facilities;
- 5) the level of charges referred to in Article 36e.1.

2. The service facility statement shall be subject to update in the event of a change of information included therein.

3. The operator not later than 2 weeks before the date of publication of the network statement referred to in Article 32.3 shall:

1) publish service facility statement on its website;

2) provide the President of UTK and the manager to whose railway network the facility is connected with the service facility statement or inform them about a website at which the service facility statement was published.

4. The President of UTK, taking into consideration the necessity of ensuring non-discriminatory and equal treatment of railway undertakings seeking access to the facility, , ex officio or upon request of a railway undertaking, shall, by way of a decision, order to introduce changes in the published service facility statement, if the service facility statement do not meet the requirements specified in the provisions of this Chapter.

5. In the decision referred to in paragraph 4, the President of UTK may in particular order a change of:

1) the level of charges referred to in Article 36e.1, taking into account the calculation rules of charges referred to in Article 36e.2 and the level of charges collected by other operators for making available and providing services in the same facilities;

2) deadlines for submission of the applications referred to in Article 36b.1, taking into account capacity of the railway track that is part of the facility, the types of services provided therein, and justified needs of railway undertakings.

Article 36g. 1. The operator, who is a railway undertaking, if it makes available a facility:

1) shall keep separate accounts for operations consisting in facility management;

2) under disclosures in additional notes to the annual financial statements shall present relevant items of the balance sheet and the profit and loss account separately for operations consisting in management of the service facilities.

2. In the event that:

1) a function of the operator is performed by an entrepreneur who at the same time is a railway undertaking holding a dominant position within the meaning of the Act of 16 February 2007 on Competition and Consumer Protection (Journal of Laws of 2015, item 184, 1618, and 1634 and of 2016, item 1823), for whom a specific facility is used, or

2) the operator is, directly or indirectly, controlled by the entrepreneur referred to in paragraph 1,

– the operator shall be independent of a railway undertaking in terms of organisation and decision-making.

3. In order to ensure independence referred to in paragraph 2, the operator:

- 1) in terms of the organisational structure, the operator has its own employees and separate organisational units competent for provision of facilities or services in those facilities, and also collecting charges from railway undertakings for such activities;
- 2) in terms of decision-making, the operator shall ensure that the responsibilities entrusted to members of managing bodies or employees holding managerial positions in the organisational units referred to in paragraph 1, does not include any matters relating to commercial operations by the railway undertaking referred to in paragraph 2.1;
- 3) shall draw up and be responsible for implementation of the programme setting out measures which should be undertaken to ensure non-discriminatory access to the facilities or provision of the services in those facilities, including detailed obligations of the employees under these programmes;
- 4) shall appoint a compliance officer monitoring the implementation of the programme referred to in paragraph 3, who shall be independent in his actions and have access to information of the operator activities necessary for the performance of his tasks.

4. The provisions of paragraphs 2 and 3 shall apply to the facilities listed in paragraphs 2.1–4.7 and 9 of Annex II to the Act.

Article 36h. 1. The President of UTK shall keep a register of service facilities, hereinafter “Register of Facilities”.

2. Following data shall be collected in the Register of Facilities:

- 1) the name of the entity, its registered office and address or the first name, surname, and address of residence of:
 - a) facility owner,
 - b) facility manager,
 - c) operator;
- 2) railway networks to which the facility has been connected;
- 3) scope of services that may be provided in the facility.

3. Managers of a facility shall provide the President of UTK with the data referred to in paragraph 2 within the scope of their competences.

Article 36i. The provisions of Articles 36a–36h shall not apply to the facilities connected only to the railway infrastructure to which at least one of the exclusions referred to in Article 35a.1.1 and Article 35a.1.3 or Article 36 apply, except for facilities which are necessary for the provision of transport services or are used or may be used for more than one end customer.

Chapter 6b

Passenger stations and passenger platforms

Article 36j. 1. The provision of a passenger station shall consist in:

- 1) enabling passengers to use the passenger station;
- 2) making railway undertakings available pursuant to the terms and conditions specified in Chapter 6a:
 - a) space intended for passenger service including space in front of ticket offices, waiting room, space providing access to platforms from a public road or railway station, as well as space for displaying additional information for passengers, or
 - b) ticketing system operated by the passenger station operator.

2. The operator of a passenger station may not make the railway station to passengers if the passenger station is not made available to railway undertakings in the manner specified in paragraph 1.2. In such a case, the passenger station shall be referred to as closed.

Article 36k. 1. Passenger stations shall be made available to passengers free of charge.

2. The passenger station operator shall draw up and make available by means of announcements on information boards the rules for the use of passenger station by passengers which shall in particular list the parts of the passenger station that are closed.

3. If a passenger station is managed by several operators of passenger stations, they shall draw up common rules for the use of passenger station.

4. The passenger station operator managing an operable railway station shall provide a waiting room for passengers.

Article 36l. 1. A name of the passenger station shall be determined by the railway line manager on which a passenger station is located. If a passenger station is located on railway lines managed by different managers, a name of the station shall be determined by all managers in consultations.

2. Costs of changing the name of a passenger station shall be borne by the requesting entity.

Article 36la. The provisions of Articles 36j.1.1, 36k.1 and 36l shall apply to passenger platforms.

Article 36m. 1. The minister competent for transport may define, by regulation, the standards of marking passenger stations.

2. Issuing the regulation referred to in paragraph 1, the following shall be considered:

- 1) the need to ensure uniformity and legibility of the marking of passenger stations;
- 2) the need to improve passenger service and increase access to rail transport services, especially to passengers with reduced mobility.

Chapter 6c

Co-operation of Managers

Article 36n. 1. Railway traffic management by combining railroads managed by different managers shall be performed on the basis of an agreement concluded among them or pursuant to the provisions of the working rules of a railway side-track agreed by the manager which is referred to in Article 19.3.4.

2. The agreement referred to in paragraph 1 shall in particular define:

- 1) contact points of railroads;
- 2) organisational units appointed for collaboration;
- 3) the rules of collaboration of managers in terms of provision of the railway infrastructure, including:
 - a) the rules of mutual provision of requests for capacity allocation,
 - b) parties development the train timetable at least on parts of the railway lines adjacent to the contact point of the railway lines,
 - c) in the case referred to in Article 36o.2, the rules of collecting fees for the provision of the railway infrastructure,
 - d) with respect to framework agreements;
- 4) the rules of railway traffic management at least on parts of the railroads adjacent to the contact point of railroads;
- 5) actions undertaken in emergency situations and under difficult conditions;
- 6) the manner of explaining serious accidents, accidents, and incidents, and their financial consequences and the manner of maintenance of related documentation;
- 7) the rules of mutual settlements;
- 8) the manner of dispute resolution.

3. The provisions of the agreement referred to in paragraph 1 may not violate the safety rules of rail traffic and safe transport services of passengers and goods.

4. The manager shall publish the agreement referred to in paragraph 1 on its web site to the extent referred to in paragraph 2.3.

Article 36o. 1. Managers whose railway lines are connected shall create a common Internet portal to allow obtaining information necessary for launching trains passing through more than one railway network.

2. Managers of railway lines may jointly appoint or indicate an entity responsible for railway infrastructure provision.

Article 36p. 1. The manager shall inform the European Commission about meetings at which developed are common rules and practices concerning allocation of capacity at the contact point of networks of managers whose railway infrastructure has been recognised in a decision issued by the European Commission as the railway infrastructure which may have any strategic importance for the functioning of the rail market. The European Commission shall be invited to participate in those meetings as an observer.

2. Arrangements made by managers with respect to common rules and practices concerning capacity allocation and utilisation of information technology systems to this end shall be provided by managers to the President of UTK within a month from being made.

Article 36q. PLK S.A. cooperates with main managers from other Member States of the European Union within the framework of the Platform of Rail Infrastructure Managers in Europe.

Chapter 7

Railway Transport Financing

Article 37. 1. Managers and railway undertakings shall maintain financial management pursuant to the rules specified in separate regulations, taking into account the provisions of this Chapter.

2. Managers shall separate in their accounting:

- 1) (repealed)
- 2) records of the railway line costs, divided into the costs of construction, maintenance, train traffic management and administration of those lines.

2a. The manager shall develop a method of cost allocation to individual category of services offered to railway undertakings.

3. In the case of operations consisting in railway infrastructure management and performance of rail transport services, separate balance sheets and profits and loss accounts shall be published for each type of those operations. Public funds disbursed for one of those two types of operations may not be transferred into another one of them.

4. Railway undertakings performing rail transport services of passengers and goods:

- 1) may not transfer public funds between those types of transport services;
- 2) shall prepare a separate balance sheet and profit and loss account for each of those types of transport services;
- 3) shall separate operations for each of those types of transport services in their books of account.

5. Financial statements of the railway undertakings referred to in paragraph 4 shall additionally include a balance sheet and a profit and loss account for rail transport services of persons and goods.

6. Managers and railway undertakings shall maintain accounting in a manner which allows monitoring of prohibition to transfer the public funds referred to in paragraph 3 and paragraph 4.1.

7. Managers shall maintain accounting in a manner which allows monitoring of the utilisation of proceeds from fees for using the railway infrastructure by railway undertakings and surpluses from other types of conducted business operations.

8. Managers and railway undertakings, who pursuant to the accounting regulations are not obliged to publish their own financial statements, shall publish such statements on their web sites.

Article 37a. 1. The manager shall prepare and maintain a register of its assets and assets under its management. The register shall include detailed information on costs of renewing and upgrading the infrastructure.

2. In order to ensure comparability of data presented in registered prepared by managers, the minister competent for transport may issue guidelines concerning the rules governing register preparation.

3. The minister competent for transport shall prepare the guidelines referred to in paragraph 2 after obtaining opinion of the minister competent for public finance and managers.

4. The minister competent for transport shall:

- 1) disclose in public the content of the guidelines referred to in paragraph 2 and their changes, too, in the Bulletin of Public Information of the office supporting the minister competent for transport;

- 2) announce a message on the place of the guidelines and their changes in the Official Journal of the Republic of Poland "Monitor Polski" and also about the date from which the guidelines and their changes shall become effective.

Article 38. 1. The following shall be financed out of the state budget:

- 1) investments underlying international contracts and agreements;

- 2) investments, refurbishments, operation and maintenance of railway lines of defence importance only;
- 3) costs of preparing and implementing investments comprising the railway lines of state importance.

1a. The costs referred to in paragraph 1.3 shall particularly include

- 1) disbursement of compensation referred to in Article 9y.1 and Article 9y.2;
- 2) disbursement of the purchase price of real properties referred to in Article 9t and other costs related to their purchase;
- 3) disbursement of amounts due and one-off compensation referred to in Article 5a.2 of the Act of 3 February 1995 on the Protection of Agricultural and Forest Land;
- 4) costs of indication of replacement premises underlying implementation of the obligation referred to in Article 9w.4.

2. The tasks referred to in paragraph 1 may also be financed from the funds of the manager and local government units and from other sources.

3. Subject to paragraph 1.2 the costs of railway infrastructure maintenance are financed by the manager provided that they may be financed by local government units and from other sources or co-financed from the state budget.

4. The Budget Act shall define the amount of funds allocated for financing of the tasks referred to in paragraph 1 in a given year.

5. Investments comprising other railway lines referred to in Article 6.1.2 are financed by the manager; they may be co-finance from the state budget, the budget of local government unit and from other sources.

6. Expenditures concerning purchasing and upgrading railway vehicles to be used for performing passenger transport services and expenditures for the development of an information technology settlement system of ticket sales for taking public transport means of various carries, including a through ticket may be financed out of public funds.

6a. Expenditures for constructing or rebuilding railway stations directly relating to passenger services may be financed or co-financed out of public funds.

6b. Expenditures of PLK S.A. relating to purchase and upgrade of railway vehicles for diagnostics, maintenance, repairs, or construction of the railway infrastructure and to conduct rescue operations may be financed or co-financed out of public funds.

7. Railway investments under the programmes of transport infrastructure development and purchase of railway vehicle to be used for transporting goods under one agreement on transport

services using at least two different means of transport (intermodal transport) may be financed or co-financed out of public funds.

8. In consultations with the minister competent for public finance, the minister competent for transport shall define, by way of a regulation, the manner, the mode, and the terms and conditions of financing, co-financing the investments referred to in paragraph 6 and 7, being guided by the principles of fair competition, sustainable transport development, and economic efficiency.

9. The manager may take out loans, borrowings, or may issue bonds in the country and abroad with a purpose of financing preparatory work and investment tasks carried out under the multi-year programme referred to in Article 38c.

10. The State Treasury may grant guarantees and sureties for the liabilities of PKL S.A. under taken loans and borrowings and the issued bonds for the purposes of financing preparatory work and the investment tasks referred to in paragraph 1 pursuant to the provisions of the Act of 8 May 1997 on Sureties and Guarantees Granted by the State Treasury and Certain Legal Persons (Journal of Laws of 2021, item 442 and 1553), with the exception of Article 2a.2 of that Act.

11. The guarantees and sureties referred to in paragraph 10 shall be exempt from commission fees.

Article 38a. 1. The minister competent for transport may co-finance operations of the manager that may not be financed from fees for using the railway infrastructure out of the state budget or the Railway Fund, provided that the manager shall execute the obligation of providing the railway infrastructure comprising at least one railway line which is established in the provisions of Chapter 6.

2. The operations referred to in paragraph 1, the amount of public funds allocated for their co-financing and managers authorised to receive co-financing are defined in the multi-year programme with the meaning of the provisions of the Act of 27 August 2009 on Public Finance (Journal of Laws of 2021, item 305, 1236, 1535 and 1773).

3. The multi-year programme referred to in paragraph 2 shall be established by the Council of Ministers for a period not longer than 5 years. The programme includes its obligations, broken down into individual years of its term:

- 1) estimated on the basis of the register referred to in Article 37a.1 and the guidelines concerning the uniform macroeconomic indicators referred to in Article 50a of the Act of 27 August 2009 on Public Finance:

- a) the forecast of the amount of costs of operations relating to the manager's tasks referred to in Article 5.1.1–3,
 - b) the forecast of the amount of the manager's revenues from fees collected from applicants and other revenues,
 - c) the manager's need for public funds underlying the forecasts referred to in letter a and b;
- 2) goals planned to implement, also including those that refer to lowering the costs of operations and ensuring an optimum level of the effectiveness of operations, in particular in terms of the quality of offered services and safety;
 - 3) the adopted indicators of goal implementation referred to in sub-paragraph 2;
 - 4) the system of programme implementation, monitoring, and evaluation.

4. The manager shall use the register referred to in w Article 37a.1 for the purpose of assessing the amount of the costs referred to in paragraph 3.1.a with regard to repairs or replacement of assets.

5. The multi-year programme shall be implemented on the basis of an agreement concluded between the minister competent for transport and the manager for the term of the programme referred to in paragraph 2.

6. The agreement referred to in paragraph 5 shall define details of financing of the operations referred to in paragraph 1 using public funds. The subjective scope of the issues that are governed by the agreement has been defined in Annex III to the Act.

7. Prior to execution of the agreement referred to in paragraph 5, the minister competent for transport and the manager shall ensure that applicants should have a possibility of expressing their opinions about the content of the agreement, with the exclusion of the provisions that constitute confidential business information.

8. The agreement referred to in paragraph 5 shall be published on a web site of the manager not later than within a month from its conclusion, with the exclusion of the provisions constituting confidential business information.

9. By 31st March of each year, the minister competent for transport shall submit a report to the Council of Ministers on the implementation of the multi-year programme referred to in paragraph 2 for the previous year.

Article 38b. The manager's operations referred to in Article 38a.1 may be financed or co-financed out of the budget of a local government unit. The provisions of Article 38a.5–8 shall be applied accordingly.

Article 38ba. 1. The manager who, after allocating railway infrastructure capacity in accordance with the procedure laid down in the Chapter 6 finds that the revenue from the provision of the railway infrastructure and the funding referred to in Article 38a.1 and the funding or co-funding referred to in Article 38b do not cover the costs of providing that infrastructure may launch the procedure to prepare the closure of the railway line or section of the railway line.

2. The procedure for preparing the decommissioning of a railway line or section of a railway line shall consist of:

- 1) to analyse the possibilities for reducing the costs of railway infrastructure management;
- 2) to analyse the possibility of increasing revenues from managed rail infrastructure;
- 3) notification to the applicants and railway undertakings concerned of the intention to decommission a railway line or section of a railway line;
- 4) informing competent authorities of local self-government units, on the area of which the railway line or a section of the railway line is located, in particular organisers of passenger transport in railway transport within the meaning of the Act of 16 December 2010 on public collective transport, about measure of liquidation of the railway line or a section of the railway line;
- 5) informing the minister in charge of transport on the intention to liquidate a railway line or a section of railway line.

3. The procedure for preparing the decommissioning of a railway line or section of a railway line may be halted where

- 1) the competent local government unit or the manager appointed by it shall enter into an agreement to take over the railway line or the section of the railway line for management free of charge for its further operation;
- 2) the minister responsible for transport shall provide the funding referred to in Article 38a.1.

4. In case when the procedure of preparing the liquidation of railway line or a section of railway line has not been stopped, after 3 months from taking actions referred to in paragraph 2, the manager may apply to the minister competent for transport for permission to liquidate the railway line or the section of railway line.

5. The minister competent for transport, by means of a decision, shall issue a consent to liquidate a railway line or a section of a railway line or shall refuse to issue the consent, within 3 months from the date of submission of the application referred to in paragraph 4, taking into account economic, social, defence or ecological considerations.

6. For the liquidation of a railway siding or a section thereof, the provisions of paragraphs 1 to 5 shall apply *mutatis mutandis*.

7. In the case of railway lines of state importance, the decision of the minister responsible for transport shall be issued after the railway line or section of the railway line has been removed from the list of railway lines of state importance.

Article 38c. 1. Investments comprising railway lines managed by PLK S.A. shall be conducted under the multi-year programme within the meaning of the provisions of the Act of 27 August 2009 on Public Finance.

2. The multi-year programme shall be established for a period not shorter than 3 years.

3. The multi-year programme shall contain the elements referred to in the Act of 6 December 2006 on the Principles of Development Policy (Journal of Laws of 2021, item 1057), and:

- 1) the list of all investments carried out using financial means that are managed by the minister competent for transport together with determination of the total cost of each of those investments and its allocation to a group of investments financed from specific sources;
- 2) the list of all sources of financing by years of execution of the investments included in the programme, itemising the groups of investments financed from specific sources.

4. The minister responsible for transport shall approve a detailed plan of the multi-year programme containing the scope of works of the planned investments, in particular, determination of the planned expenditures divided by sources of financing for specific investments in individual years of programme implementation. Ensuring provision of financing or co-financing from the state budget within the meaning of the provisions of the Act of 27 August 2009 on Public Finance shall be done on the basis of a detailed plan of multi-year programme implementation.

5. The plan of multi-year programme implementation referred to in paragraph 4 shall be approved in agreement with the minister competent for public finance and with the minister competent for regional development with regard to projects executed with European funds.

6. By 31st May of each year, the minister responsible for transport, in agreement with the minister competent for public transport and with respect to projects executed with European funds in agreement with the minister competent for regional development, shall submit a report to the Council of Ministers on the plan of multi-year programme implementation for the previous year. The report shall be disclosed in public by the announcement of its content in the Bulletin of Public Information of the office supporting the minister responsible for transport.

7. The scope of the report referred to in paragraph 6 shall be defined in the programme referred to in paragraph 1. The reports shall in particular include:

1) data on execution of the carried investments in terms of their financial and scope of works,

2) the updated list of all sources of financing of the programme in individual years of programme implementation.

8. By accepting the report, the Council of Ministers shall express their consent to updating the programme to the extent indicated in the report, provided that such update may not increase the total limit of expenditures from the state budget for programme implementation. The provisions of Article 48 of the Act of 3 October 2008 on Providing Information on the Environment and Environmental Protection, Public Participation in Environmental Protection and on Environmental Impact Assessment shall be applied accordingly. The provisions of Article 18, 19, and 19a of the Act on the Principles of Development Policy of 6 December 2006 shall not apply.

Article 38d. 1. The minister responsible for transport may take a decision on co-financing the allowance referred to in Article 34.2.

2. Co-financing of the allowance referred to in Article 34.2 may be provided to the manager under the agreement referred to in Article 38a.5.

3. The minister responsible for transport may grant assistance dedicated to certain types of railway transport to entrepreneurs using railway transport or entrepreneurs intending to use it.

Article 38e. If co-financing referred to in Article 38d.1 or the assistance referred to in Article 38d.3 is public aid, the minister competent for transport shall define by way of a regulation a detailed purpose, the terms and conditions and the manner of granting assistance, taking into account the necessity of ensuring compliance of such assistance with the single market within the meaning of the Treaty on the Functioning of the European Union.

Article 38f. 1. The manager shall prepare a business plan in which he shall define the manner of achieving his adopted technical, commercial goals, and those related to financial management, including the manner of achieving a financial equilibrium.

2. The manager shall ensure that applicants collaborating with him and that upon their request, prospective applicants have access to relevant information and have an opportunity of expressing their views on the content of the business plan with regard to the terms and conditions of accessing the infrastructure, using it and its nature, infrastructure provision and development, before it is accepted by the manager.

3. The manager shall adjust the plan referred to in paragraph 1 to the provisions of the agreement referred to in Article 38a.5 not later than within 3 months from its conclusion.

Article 38g. The railway undertaking shall prepare a business plan taking into account investment programmes and the plan of utilising financial instruments. The plan shall define the manner of achieving a financial equilibrium by the railway undertaking and other technical, commercial goals, and those related to financial management.

Article 39. (repealed)

Article 40. (repealed)

Article 40a. (repealed)

Article 41. (repealed)

Article 42. (repealed)

Chapter 8

Railway Transport Licensing

Article 43. 1. Business operations which requires granting a license are:

- 1) passenger services;
- 2) freight services;
- 3) traction services.

2. A licence shall be confirmation of the entrepreneur's capability to perform the function of a railway undertaking within the territory of the Republic of Poland and the states referred to in paragraph 3.

3. Licences issued by relevant authorities of the Member States of the European Union or the Member States of the European Free Trade Agreement (EFTA) – the parties to the Agreement on the European Economic Area shall also be confirmation of the entrepreneur's capability to perform the function of a railway undertaking.

4. (repealed)

4a. (repealed)

5. The licence shall not authorise the entrepreneur to access the railway infrastructure.

6. (repealed)

Article 44. The obligation to obtain a licence does not apply to entrepreneurs performing only transport:

- 1) narrow gauge railway on local and regional rail networks;
- 2) on private infrastructure, including railway sidings.

Article 45. 1. The President of the UTK shall be the authority competent to grant, refuse to grant, change, suspend or revoke a licence to an entrepreneur with its registered office in the territory of the Republic of Poland.

2. Granting, refusing to grant, changing, suspending or revoking a licence shall be made by way of a decision.

3. The license is a permit within the meaning of the Act of 6 March 2018 – Entrepreneurs' Law.

Article 46. 1. The licence is granted at the request of the entrepreneur.

2. The licence application includes:

- 1) entrepreneur's name, its registered office and address;
- 2) the number in the register of entrepreneurs in the National Court Register, if the entrepreneur has such number;
- 3) tax identification number (NIP);
- 4) specification of the subject and scope of business operations for which the licence is to be granted.

3. The application shall be appended with:

- 1) information on the entrepreneur's hitherto business operations;
- 2) documents confirming satisfaction of the requirements concerning:
 - a) good repute,
 - b) financial fitness,
 - c) professional qualifications,
 - d) cover for the entrepreneur's civil liability.

4. The requirements concerning the good repute shall be considered as satisfied, if:

- 1) the entrepreneur's bankruptcy has not been announced;
- 2) the entrepreneur has not been held liable under the regulations on liability of collective entities for acts prohibited under the pain of penalty;
- 3) the entrepreneur has not been punished for serious violations of the law specified in special regulations applicable to transport;

- 4) members of the legal entity's managing authority, a partner, a general partner in a general partnership, a limited partnership, or a partnership limited by share, and in the case of another entrepreneurs – persons conducting business operations, have not been sentenced under a final judgement by court for criminal offences, fiscal offences committed wilfully, or for unintentionally recurring violation of the rights of persons performing paid jobs.

In order to confirm fulfilment of the requirements referred to in the first sentence, the entrepreneur seeking to obtain the licence shall present statements or certificates.

5. The statement referred to in paragraph 4 shall be made subject to penal liability for making false statements. A person making the statement shall be obliged to include in it a paragraph reading as follows: “I am aware of criminal liability for making a false statement”. The paragraph shall replace the instructions by the authority on penal liability for making false statements.

6. The requirements concerning financial fitness shall be considered as satisfied when the entrepreneur is able to demonstrate that it is capable of satisfying actual and potential financial liabilities for a period of 12 months as from the date of licence granting. To this end:

- 1) the entrepreneur seeking to obtain the licence shall present:
 - a) the financial statements for the last financial year together with a report from the audit or the balance sheet, when the entrepreneur may not present the financial statements,
 - b) the cashflow statement for the year in which it seeks to obtain the licence, and the planned cashflow statement for the next year,
 - c) confirmation of an amount on the bank account and other financial security for liabilities,
 - d) data on expenditure related to the activities referred to in Article 43(1), including information on the purchase of vehicles, land, buildings, installations and rolling stock,
 - e) information on the overdraft limits secured on the bank account,
 - f) information on any debits on the entrepreneur's assets.
- 2) The President of UTK shall obtain from relevant authorities the information on the amount of the entrepreneur's arrears:
 - a) in taxes,
 - b) in payment of contributions for social insurance, health insurance, the Labour Fund, and the Guaranteed Employee Benefits Fund within the meaning of the Act of 13

October 1998 on the Social Insurance System (Journal of Laws of 2021, item 423, 432, 619 and 1621).

7. The requirements concerning the financial fitness shall be deemed as not satisfied in the case of the entrepreneur in the business of which there are material or recurring arrears in public law liabilities.

8. In the event of doubts as to the entrepreneur's financial fitness, the President of UTK may demand bank or accounting information and documents other than stipulated in paragraph 6 reliably showing the current financial standing of the entrepreneur.

9. The requirements concerning the professional qualifications shall be deemed as satisfied when the entrepreneur has or commits to have a management organisation that ensures control of safety, reliability, and supervision of the licensed operations. To this end, the entrepreneur seeking to obtain the licence shall present:

- 1) documents concerning qualifications of employees responsible for safety of rail transport services and detailed data on training of such employees, or
- 2) a statement on the planned headcount and training the employees referred to in paragraph 1.

10. The requirements concerning the cover for entrepreneur's civil liability shall be deemed as satisfied when the entrepreneur seeking to obtain the licence shall demonstrate that it has concluded a third party liability agreement or an insurance guarantee agreement.

11. The financial cover for entrepreneur's civil liability referred to in paragraph 10 shall include the requirements specified in the provisions of Article 12 of Regulation No 1371/2007/EC.

12. The minister responsible for financial institutions in agreement with the minister responsible for transport shall define by way of a regulation, the date of occurrence of an insurance obligation and the minimum guarantee sum taking into consideration the scope of the business operations performed by the railway undertaking.

Article 47. 1. The decision on granting or refusing to grant a licence is issued by the President of UTK not later than within 3 months from the day the entrepreneur submits a complete application for a licence.

2. The licence is issued for an indefinite period, subject to Article 49a paragraph 3.

3. The President of UTK may not refuse to grant a licence, taking into account paragraph 5, if the entrepreneur applying for the licence meets the requirements set out in the Act.

4. The President of UTK may refuse to grant a licence if the entrepreneur does not meet the requirements referred to in Article 46 section 3 point 2.

5. The President of UTK may refuse to grant a licence, revoke a licence, suspend a licence or change its scope due to a threat to the defence of the country or national security or other important public interest.

Article 48. 1. The railway undertaking, in the event of a change affecting its legal situation, in particular in the event of a merger or takeover, informs the President of UTK, who may decide to re-submit the licence for approval, if it finds a threat to the safety of its operations. The President of UTK justifies the decision approving the licence again.

2. The railway undertaking shall inform the President of UTK about the circumstances referred to in paragraph 1 within 14 days from the date on which they have become effective.

3. If the railway undertaking intends to significantly change or expand its operations, it shall inform about that the President of UTK who shall request it to resubmit the licence for approval.

4. If the entrepreneur has not conducted licensed operations for a period of 6 months or has not undertaken such operations within a period of 6 months from the date of receipt of the decision on granting the licence, the President of UTK shall take a decision on resubmission of the licence for its approval or suspension. Because of a specific nature of services which are to be provided, it may request the President of UTK for granting a longer period to commence licensed operations.

5. If the entrepreneur intends to change the scope of the licensed operations, it shall submit a request to the President of UTK to change the licence.

Article 49. 1. The President of UTK shall perform periodic inspection of the railway undertaking with regard to the compliance of the terms and conditions specified in the licence and the requirements underlying the Act not less frequently than once every 5 years.

2. Irrespective of the obligation referred to in paragraph 1, in the event of reasonable doubts regarding compliance of the terms and conditions specified in the licence or the requirements underlying the Act by the railway undertaking, the President of UTK may perform an inspection of the railway undertaking in that respect.

Article 49a. 1. The President of UTK shall suspend a licence if an entrepreneur:

1) fails to meet the requirements specified in Article 46;

- 2) has failed to comply with the obligations made in the statement referred to in Article 46.9.2 at the dates prescribed there;
- 3) performing international rail transport services fails to comply with the provisions of relevant international agreement to which the Republic of Poland is a party.

2. In the event of suspension of the licence due to non-compliance with the requirements concerning financial credibility, the President of UTK may set a date for rectification of irregularities and grant a temporary licence for a period of making changes in the undertaking, provided that it shall not threaten safety of the conducted operations. The temporary license shall be valid not longer than for 6 months from the date of receipt of the decision on its granting.

3. The President of UTK shall revoke the licence, if the entrepreneur:

- 1) has been deprived of the right to carry out licensed business operations pursuant to a final court ruling;
- 2) against whom bankruptcy or other proceedings of similar nature have been instituted, has no actual possibilities of implementing satisfactory financial restructuring within a reasonable period of time;
- 3) has failed to rectify the irregularities that have been the basis for suspension of the licence at the dates prescribed by the President of UTK.

4. If the license has been revoked due to failure to comply with the requirements concerning the financial credibility, the provision of paragraph 2 shall be applied accordingly.

5. If the President of UTK has established that the railway undertaking with the license issued by a competent authority of another Member State of the European Union fails to comply with the requirements concerning licensing, he shall immediately notify the competent authority of that Member State accordingly.

Article 49b. The President of UTK shall immediately notify the Agency about granting the licence, its revocation, suspension, or change.

Article 50. 1. For granting a licence and a temporary licence, a fee shall be collected in the amount not exceeding the PLN equivalent of EUR 2,000, determined using the average exchange rate announced by the National Bank of Poland applicable on the date of granting the licence.

2. The fee shall be paid on a one-off basis or in instalments.

3. The fee shall be charged by the President of UTK and shall be the state budget's income.

4. The fee referred to in paragraph 1 shall be governed by the provisions on enforcement proceedings in administration regarding enforcement of the financial liabilities.

5. The minister responsible for transport, in consultation with the minister responsible for public finance, shall determine, by regulation, the amount and method of payment of the fee referred to in paragraph 1, taking into account the costs not higher than the reasonable costs of granting the licence and controlling its implementation.

Article 51. 1. The President of UTK shall disclose in public in the Bulletin of Public Information of the Office of Rail Transport the manner of licence granting.

2. The President of UTK shall inform the European Commission about each change in the manner of granting licences.

Article 51a. (repealed)

Article 52. (repealed)

Chapter 9

Location of Structures, Buildings, Trees, and Bushes and Execution of Earthwork Adjacent to Railway Lines

Article 53. 1. Locations of structures, buildings, trees, and bushes and execution of earthwork adjacent to railway lines, railway side-tracks, railway crossings may be carried out within a distance that does not disturb their operation, working of devices related to railway traffic management, and that does not cause a threat to railway traffic safety, either.

2. Structures and buildings may be located within a distance not smaller than 10m from the border of a railway area, provided that the distance from the axis of the outer track may not be smaller than 20m, subject to paragraph 4.

3. The distances referred to in paragraph 2 for residential buildings, hospitals, nursing homes, recreational and leisure facilities, buildings involving multi-hour stay of children and youth should be increased, depending on the building's purpose, to maintain standards of permitted noise in the environment, specified in separate regulations.

4. The provision of paragraph 2 shall not be applied to buildings and structures to be used for railway traffic management and railway line maintenance and to support rail transport services of passengers and goods.

Article 54. In agreement with the minister competent for the environment and the minister competent for the interior, the minister competent for transport shall define, by way of a

regulation, the requirements concerning distances and the conditions permitting location of trees and bushes, elements of acoustic protection and execution of earthwork adjacent to a railway line, and also the manner of arranging and maintaining snow fences and fire-protection routes, taking into account ensuring railway traffic safety.

Article 55. 1. In exchange for compensation, the manager shall have the right, on land adjacent to the railway lines, to:

- 1) set up snow fences;
- 2) set up hedges;
- 3) arrange and maintain fire-protection routes.

2. Determination of compensation for setting up snow fences, setting up hedges, arranging and maintaining fire-protection routes shall be done by way of an agreement of the parties.

3. If planting trees or bushes resulting in a necessity of arranging fire-protection routes, has occurred after a railway line has been built, owners of land shall be charged with the costs relating to arrangement and maintenance of such routes.

Article 56. 1. If there is a need to remove trees or bushes which obstruct visibility of signals and trains or operation of railway devices or cause snow drifts, a starost, upon the manager's request, shall issue a decision on removal of trees or bushes. The decision shall be implemented by the manager.

2. Determination of compensation for trees and bushes and their removal shall be done by way of an agreement of the parties.

3. In the event of no agreement of the parties, the compensation referred to in paragraph 2 and Article 55.1 shall be determined by the starost by applying the rules provided in the case of expropriation from real properties.

4. The compensation shall not be due, if:

- 1) planting of trees or bushes has occurred in violation of the provisions of the Act after the railway line has been built;
- 2) trees or bushes at crossings with roads at the level of rails make it difficult for users of those roads spotting an arriving train or seeing signals made for them.

Article 57. 1. In particularly justified cases, it shall be permitted to deviate from the conditions governing location of the buildings and structures specified in Article 53 and execution of earthwork specified on the basis of Article 54. A deviation may not cause a hazard

to human life or safety of property and safety and proper railway traffic, and may not disturb operation of devices used to manage such traffic, either.

2. A competent authority of architecture and construction administration, within the meaning of the Construction Act shall either grant or refuse to grant consent to a deviation after obtaining an opinion of the competent manager.

Article 57a. 1. In particularly justified cases, it shall be permitted to deviate from distances and the conditions allowing location of trees and bushes specified in the regulations issued on the basis of Article 54. A deviation may not cause a hazard to railway traffic safety or disturb operation of devices used to manage such traffic.

2. Consent to the deviation referred to in paragraph 1 shall be granted by a starost by way of a decision, following agreement by a competent manager, having regard to railway traffic safety.

Chapter 10

Protection of Order in Railway Area

Article 58. 1. Access to a railway area shall be permitted only in the places indicated by the manager.

2. Except for the places referred to in paragraph 1, persons with authorisation from a competent manager or a competent railway undertaking and persons authorised on the basis of separate regulations shall have access to the railway area.

3. Managers and railway undertakings shall be obliged to ensure law and order in a railway area and on trains and other railway vehicles.

Article 59. 1. The manager or several managers jointly, upon consent of the minister competent for transport issued in agreement with the minister competent for the interior, shall create the Railroad Guards operating pursuant to the rules specified in this Chapter and shall appoint a commander of the Railroad Guards.

2. The consent referred to in paragraph 1 shall be issued by way of a decision.

3. Costs related to operation of the Railroad Guards shall be covered by the manager or managers.

4. A member of the Railroad Guards may be a person who:

- 1) has Polish citizenship;
- 2) enjoys full legal capacity;
- 3) has at least secondary education or secondary industry-specific education;

- 4) has a military status of a reservist;
- 5) enjoys impeccable repute;
- 6) has physical and psychological capabilities to serve in armed formation;
- 7) has not been sentenced for criminal offences committed wilfully.

5. Admission of a member of the Railroad Guards to perform tasks using fire arms shall be made upon request of the commander of the Railroad Guards by way of a decision issued by a competent Police authority.

6. In consultations with the minister competent for internal affairs, the minister competent for transport shall, by way of a regulation, define:

- 1) a detailed scope of operations and manner of organisation of the Railroad Guards,
- 2) (repealed)
- 3) detailed conditions that members of the Railroad Guards should comply with, the principles governing assessment of physical and psychological capabilities to serve and the manner and units authorised to issue opinions of such capabilities

– taking into account the tasks and the operating principles of the Railroad Guards.

7. (repealed)

8. The minister competent for transport, in agreement with the minister competent for internal affairs, shall define, by way of a regulation, the order regulations applicable in the railway area, on trains and other railway vehicles, taking into account the conditions and requirements relating to the functioning of railway transport.

Article 60. 1. The tasks of the Railroad Guards shall include:

- 1) inspection of compliance with the law and order regulations within the railway area, on trains, and other railway vehicles;
- 2) protection of human life and health and property within the railway area, on trains, and other railway vehicles.

2. By performing their tasks, a member of the Railroad Guards shall have the right to:

- 1) ask for ID's of persons suspected of committing a criminal or petty offence, as well as witnesses of a criminal or petty offence to establish their identity;
- 2) seizure of persons for the purpose of immediately bringing to the nearest Police unit in the case of whom there is a justified need to undertake actions that go beyond the rights of the Railroad Guards;

- 3) stop and inspect a road vehicle moving within the railway area and in the adjacent strip of land in the case of justified suspicion of a criminal or petty offence committed with the use of such vehicle;
- 4) impose fines by way of a penalty notice pursuant to the rules stipulated in the Code of Petty Offence Procedure;
- 5) conduct explanatory proceedings, apply to court with a motion for punishment, make accusations before court and make appeals in the manner provided for in the Code of Petty Offence Procedure.
- 6) (repealed)

3. In the cases referred to in Article 11.1–6, 8–10, and 12–14 of the Act of 24 May 2013 on the Measures of Direct Coercion and Firearms (Journal of Laws of 2019, item 2418), a member of the Railroad Guards may resort to using the measures of direct coercion referred to in Article 12.1.1, Article 12.1.2.a, Article 12.1.7, Article 12.1.9, Article 12.1.12.a, and Article 12.1.13 of that Act or use such measures.

4. In the cases referred to in Article 45.1.a–c and e, Article 45.2, and Article 45.3.a, and in Article 47.3, Article 47.5, and Article 47.6 of the Act of 24 May 2013 on the Measures of Direct Coercion and Firearms, a member of the Railroad Guards may resort to using their firearms or use them.

5. Resorting to use and using the measures of direct coercion and firearms and documenting such resort to use and using shall be done pursuant to the rules specified in the Act of 24 May 2013 on the Measures of Direct Coercion and Firearms.

6. The manner of conducting the activities referred to in paragraph 2.1–3 and paragraph 3 may be appealed against to a locally competent public prosecutor pursuant to the provisions of the Code of Criminal Procedure.

7. Regulations applicable to the Police shall apply to the performance of the actions by the Railroad Guards referred to in paragraph 2.1 and 2.2.

8. Regulations applicable to the Police shall apply to the performance of the actions the Railroad Guards referred to in paragraph 2.1, 2.2, and 2.6 and in paragraph 4–7 accordingly.

Article 61. 1. The minister competent for transport in agreement with the minister competent for the interior, may revoke the decision referred to in Article 59.2 in the event of violations of the provisions of Article 60.

2. The minister competent for transport, in agreement with the minister competent for the interior, may, by way of the decision referred to in Article 59.2, limit the scope of the operations and rights of the Railroad Guards.

Article 62. 1. The Railroad Guards shall be obliged to collaborate with the Police, the Border Guards, the Military Police, fiscal inspection authorities, and the Road Transport Inspectorate, and may co-operate with the Territorial Defence Force.

2. The minister competent for transport, in agreement with the minister competent for internal affairs, shall define, by way of a regulation, detailed forms of collaboration of the Railroad Guards with the Police, the Border Guards, and the Road Transport Inspectorate, especially taking into consideration: matters requiring collaboration, the manner of exchanging information on matters requiring collaboration, and the rules of co-ordinating joint tasks.

2a. The minister competent for transport, in agreement with the minister competent for national defence, may define, by way of regulation, the forms of collaboration of the Railroad Guards with the Territorial Defence Force, matters requiring collaboration, the manner of exchanging information on matters requiring collaboration, and the manner of co-ordinating joint tasks, taking into consideration a need of efficient implementation of such collaboration.

3. The minister competent for transport, in agreement with the minister competent for national defence, shall define, by way of a regulation, forms of collaboration of the Railroad Guards with the Military Police, especially taking into consideration: matters requiring collaboration, the manner of exchanging information on matters requiring collaboration, and the rules of coordinating joint tasks.

4. The minister competent for transport, in agreement with the minister competent for public finance, shall define, by way of a regulation, forms of collaboration of the Railroad Guards with the National Fiscal Administration, especially taking into consideration: matters requiring collaboration, the manner of exchanging information on matters requiring collaboration, the rules of co-ordinating joint tasks.

5. The minister competent for internal affairs, in agreement with the minister competent for transport, shall define, by way of a regulation, cases in which the members of the Railroad Guards may perform their tasks outside the railway area, especially taking into consideration the scope of the performed tasks referred to herein.

6. The minister competent for transport, in agreement with the minister competent for internal affairs shall define, by way of a regulation, the type and manners of registering, storing firearms, ammunition, and measures of direct coercion with the Railroad Guards, taking into

consideration the specific nature of operations of the Railroad Guards and the manner of preventing access to such firearms, ammunition, and such measures by third parties.

7. The minister competent for internal affairs shall define, by way of a regulation, the manner and conditions of recognising vehicles of the Railroad Guards as emergency vehicles.

8. The minister competent for transport shall define, by way of a regulation, a model of the service uniforms, the identity card, the insignia, and the identification marks of the members of the Railroad Guards, and also the standards of their assignment, the conditions and manner of their wearing.

Article 63. While performing official duties, a member of the Railroad Guards shall have legal protection provided for public officials.

Article 64. A member of the Railroad Guards may not undertaking any other paid profession without permission of the commander of the Railroad Guards.

Chapter 11

Penal Provisions

Article 65. 1. Who operates a railway vehicle or performs work in a position directly involving operation and safety of railway traffic without having qualifications required for that or permits a person to perform activities involving operation and safety of railway traffic who does not have such qualifications, shall be punishable by fine.

1a. Anyone who evades submitting the statement referred to in Article 22ca.1 or includes in it information that is contrary to the fact of the case shall be punishable by fine.

2. Who operates a railway vehicle without a valid reinstatement for operation as referred to in Article 2.d of Regulation (EU) No 2019/779, shall be liable to a fine.

3. Who violates prohibitions or orders included in the law and order regulations applicable in the railway area and on trains and other railway vehicles issued on the basis of Article 59.8 shall be punishable by fine.

4. Adjudicating in the cases relating to the acts referred to in paragraph 1–3 shall be done pursuant to the Code of Petty Offence Procedure.

Chapter 12

Financial Penalties

Article 66. 1. A financial penalty shall be imposed on:

- 1) the entrepreneur who:
 - a) carries out operations without the required document referred to in Article 17e or Article 43,
 - b) performs transport services on a railroad that has been assigned a status of unused infrastructure by the manager,
 - c) repealed
- 2) the manager who:
 - a) has not assigned the status of private infrastructure to a railroad solely used exclusively for the purposes of its owner or manager' own needs;
 - b) has failed to present the organiser of public railway transport with the information referred to in Article 5b,
 - c) operates a railroad without the required document referred to in Article 17d,
 - d) has not ensured non-discriminatory treatment of applicants,
 - e) has not modified the refusal or has not withdrawn refusal to review the application for capacity allocation in accordance with the guidelines set out in the President of UTK in the decision referred to in Article 30a.2,
 - f) has failed to publish the network statement by the date set out in Article 32.3 or to include all the required elements,
 - g) has failed to provide the President of UTK with the draft pricelist referred to in Article 33.13 by the date specified in Article 33.14,
 - h) has not informed the President of UTK about the arrangements referred to in Article 36p.2 within the prescribed date,
 - i) has not provided the applicants with the opportunity of expressing their views concerning the content of the manager's business plan;
 - j) in breach of Article 38ba, has decommissioned
 - a railway line or section thereof
 - a railway siding or a section thereof;
- 3) the railway undertaking who has failed to inform the President of UTK within the prescribed date about a change affecting its legal situation referred to in Article 48.1;
- 4) the manager or the railway undertaking who:

- a) has failed to present to the President of UTK the report on safety referred to in Article 17a.4 in a timely fashion,
 - b) makes it impossible to conduct training or access training facilities for employees of another railway undertaking or manager,
 - c) has failed to notify the Committee and the President of UTK contrary to the obligation referred to in Article 28g.1 about the occurrence of a serious accident, an accident, or an incident,
 - d) obstructs the work of the Committee or a railway committee;
- 5) the manager, the railway undertaking, or the entrepreneur performing transport services within a railway side-track, who has not provided to the President of UTK the statements referred to in Article 22ca.1.1 within the prescribed date;
 - 6) the manager, the railway undertaking, the passenger station operator, the ticket vendor, the tour organiser, or the tourist agent within the meaning of the Act on Tourist Services of 29 August 1997 who does not comply with or violates the provisions of Article 4, Article 5, and Article 7–29 of Regulation No 1371/2007/EC applicable to them;
 - 7) the manager, the railway undertaking, or the passenger station operator who:
 - a) fails to announce in public the timetable for transport services of persons or its change at the date and pursuant to the rules referred to in Article 30e,
 - b) has violated the prohibition of pursuing illegal practices defaulting on collective interests of passengers in railway transport referred to in Article 14b.1,
 - c) makes it difficult for the President of UTK or persons authorised by it in writing to perform the activities referred to in Article 15;
 - 8) the administrator, who, contrary to the obligation specified in Article 25ga.3, has failed to inform the President of UTK about any changes in the data concerning a railway vehicle registered in the National Vehicle Register with respect to data covered by such register, including occurrence of the circumstances resulting in a necessity of removing a railway vehicle from the vehicle register maintained by it;
 - 9) the entity who has failed to provide the information referred to in Article 13.3a.3 or has provided such information violating the prescribed date referred to in Article 13.3b;
 - 10) an entity which, contrary to the obligation set out in Article 14aa.3, has not provided response to the warning of the President of UTK;
 - 11) an entity, which, contrary to the obligation specified in Article 25x.3, has not made, through the ICT system supporting the the register referred to in Art. 25x.1, has entered the data in

that register entered the data in that register, made such entry out of time or has entered false data.

2. For violation of each of the provisions in paragraph 1, the President of UTK shall impose on the entrepreneur, by way of a decision, a financial penalty of up to 2% of the entrepreneur's annual revenues generated in the previous financial year, taking into account paragraph 2a and 2d.

2a. The President of UTK shall waive imposition of the penalty referred to in paragraph 2, if the consequences of violation of the provision in paragraph 1 by the entrepreneur have been immediately removed by it.

2aa. Taking into account the scope of violation, the hitherto operations of the entity and its financial capabilities, the President of UTK may impose, by way of a decision, a financial penalty in the amount corresponding to an equivalent of up to EUR 5,000 for each day of delay in the execution of:

- 1) the decisions referred to in Article 13b.1, Article 14.1–3, and Article 25m.1, and Article 25m.2, or
- 2) court judgements in the cases referred to in paragraph 2 and 3 and in Article 29.1.

2ab. The financial penalty referred to in paragraph 2aa shall be imposed starting from the date indicated in the decision imposing the penalty.

2ac. (repealed)

2b. While determining the amount of the financial penalty, the President of UTK shall consider the extent of violation of the regulation, the hitherto operations of the entity and its financial capabilities.

2c. The penalties referred to in paragraph 1.6 shall not be imposed if the railway undertaking, the manager, the passenger station operator, the ticket vendor, the tour operator, the tourist agent within the meaning of the Act on Tourist Services of 29 August 1997 before the issue date of the decision referred to in Article 13b.1 has voluntarily rectified the violation or has satisfied the obligations underlying Regulation No 1371/2007/EC.

2d. The penalty amount in the case referred to in paragraph 1.9 may not exceed an equivalent of EUR 20,000.

2e. The EUR value referred to in paragraph 2aa and 2d shall be translated into Polish zlotys pursuant to the regulations issued on the basis of Article 35.3 of the Act on Public Procurement of 29 January 2004.

3. Irrespective of the financial penalty specified in paragraph 1 and 2, the President of UTK may impose a financial penalty on the head of the manager and railway manager, provided that such penalty may be imposed in the amount not higher than 300% of its monthly remuneration.

4. Financial penalties shall be collected pursuant to the provisions on enforcement proceedings in administration regarding enforcement of the financial liabilities and shall be the state budget's income.

Chapter 13

Changes in the Applicable Regulations.

Temporary and Final Provisions

Articles 67–69. (omitted)

Article 70. Court proceedings concerning execution and performance of the agreements referred to in Article 9.1 and Article 10.1 and Article 10.2 of the Act referred to in Article 76.1 that have been instituted before the effective date hereof shall be conducted pursuant to the hitherto regulations.

Article 71. 1. The rights underlying the decisions issued before the effective date hereof shall remain in full force and effect pursuant to the provisions of the Act referred to in Article 76.1, subject to the provisions of Article 68.

2. The provisions hereof shall apply to administrative proceedings into cases covered by the provisions of the Act referred to in Article 76.1 that have been instituted and which have not been completed before the effective date hereof.

Article 72. (omitted)

Article 73. The minister competent for transport shall hand over to the President of UTK cases together with the files which come within the scope of the minister's activities and which have not been completed by the effective date of the Act.

Article 74. 1. The Office of Rail Transport shall be established.

2. The Office of Rail Transport has been established by way of transforming the existing Central Railway Inspectorate.

3. The Central Railway Inspectorate shall be hereby dissolved.

4. The President of UTK shall take over handling cases of the Central Railway Inspectorate together with the files of cases pending until the dissolution date of the Central Railway Inspectorate.

5. The employees of the Central Railway Inspectorate shall become the employees of the Office of Rail Transport.

6. The Office of Rail Transport shall take over the property of the Central Railway Inspectorate.

7. The President of UTK shall enter into all legal relations that the Central Railway Inspectorate has been a party to.

Article 75. 1. Financing of the Office of Rail Transport until the end of the calendar year in which it is established shall be provided from financial resources allocated for the functioning of the Central Railway Inspectorate and from a budget part of the minister competent for transport allocated for the tasks executed until now by the minister competent for transport to the extent in which they has been transferred to the scope of operations of the President of UTK.

2. The minister competent for public finance shall make relevant changes in the state budget for 2003 ensuring financing of the Office of Rail Transport to the extent necessary for the performance of the tasks specified hereunder.

Article 76. 1. The Railway Transport Act of 27 June 1997 (Journal of Laws, item 591, as amended) shall become null and void.

2. (omitted)

Article 77. The provisions of Article 27.6 and Article 43.3 shall apply as from the date when the Republic of Poland has acquired membership in the European Union.

Article 77a. The provisions of Chapter 2b shall become null and void as from 31 December 2020.

Article 78. The Act shall come into force after expiry of 14 days from its publication³⁾.

³ The Act was announced on 17 May 2003.

Annex I List of elements of the railway infrastructure

Railway infrastructure consists of the following elements, provided that they form part of a railway line, siding, or other railway or are devoted to their management, supporting transport operations of persons or goods, or for their maintenance:

1) rail tracks, including railroad switches and rail crossings, including rails, grooved rails, check rails, tenders, guide rails, points, frogs and other elements of railroad switches, sleepers, and longitudinal ties, small elements of the rail surface, rail ballast, including chippings and sand;

2) turntables and transfer tables;

3) railroad bed, in particular embankments and cuttings, systems of drainage channels and dykes, masonry dykes, curtain walls, greenery planted for the protection of slopes;

4) engineering structures: bridges, viaducts, culverts, and other bridge structures, tunnels, passages over and under rail racks, retaining walls and revetment of slopes;

5) signal boxes, railway traffic control devices, including safety, signalling and communications devices on lines, at stations and junction stations, devices used to generate, convert and distribute electric current for the purposes of signalling and communications; buildings in which such devices or systems are located; trackside devices for safe train running and detecting failures in the passing rolling stock; retarders; devices for heating switches;

6) platforms together with the infrastructure providing passenger with accessing them on foot or by vehicle from a public road or a railway station;

7) delivery ramps, including ramps at cargo terminals, together with entry and exit roads for goods to public roads;

8) service roads and passages along tracks, separation walls, hedges, fences, fire-protection routes, and snow fences;

9) railroad crossing and level crossings, including devices and systems used to ensure safety of road and pedestrian traffic;

10) lighting systems for the purposes of railway traffic and safety;

11) devices for converting and distributing electricity for the purposes of traction current supply:

substations, power cables between substations and contact wires, the traction network

together with supporting structures, the third rail with supporting structures;

12) land marked as record parcels on which the elements listed in sub-paragraphs 1–11 are located.

Annex Ia Elements of the Union Rail System

1. The rail network includes:

- 1) newly built high-speed rail lines for speeds equal to or greater than km/h250;
- 2) upgraded high-speed rail lines for speeds of the order of km/h200;
- 3) upgraded high-speed lines which have special features as a result of topographical, relief or town-planning constraints, on which the speed must be adapted to these constraints, including lines linking high-speed and conventional networks, lines through stations, accesses to terminals, depots used by high-speed vehicles travelling at conventional speed;
- 4) conventional railway lines for passenger services;
- 5) conventional railway lines intended for mixed traffic (passenger and freight);
- 6) conventional railway lines for freight transport;
- 7) passenger interchanges;
- 8) freight logistic centres including intermodal terminals;
- 9) Railway lines connecting the elements referred to in points 1 to 8.

In order to guarantee the safe and harmonious operation of the railway network and efficient traffic management, the railway network shall also include traffic management, tracking and navigation systems: technical installations for data processing and telecommunications intended for long-distance passenger services and freight services on the network.

2. Railway vehicles

Railway vehicles shall comprise all vehicles, including those specifically designed to operate on the railway lines listed in points (1) to (3) of paragraph 1, which are likely to travel on all or part of the Union rail network:

- 1) powered railway vehicles and coaches, including thermal and electric traction units, thermal and electric passenger trains and coaches;
- 2) freight wagons, including low-floor vehicles for the entire network and vehicles designed to carry lorries;
- 3) special vehicles such as track machines.

Annex II Services provided for railway undertakings by infrastructure managers and operators of service infrastructure facilities

1. Services provided under minimum access to the railway infrastructure:

- 1) processing of a application for capacity allocation;
- 2) enabling use of railway infrastructure, including switches and junctions within the allocated capacity;
- 3) controlling railway traffic and providing information on train movements;
- 4) providing information required to implement and operate services for which capacity has been allocated;
- 5) providing catenary network facilities, if they are available.

2. Facility access includes access to railway tracks and provision of services in the following service infrastructure facilities:

- 1) passenger station, their buildings and other facilities, including travel information display and location for ticketing services;
- 2) freight terminal;
- 3) marshalling yard and shunting yard equipped with facilities, other than signalling equipment, intended for train formation or shunting; storage sidings;;
- 4) maintenance facilities, with the exception of heavy maintenance facilities dedicated to high-speed trains or to other types of rolling stock requiring specific facilities;
- 5) technical facilities, including cleaning and washing facilities;
- 6) maritime and inland port facilities which are linked to rail activities
- 7) relief facilities;
- 8) refuelling facilities and supply of fuel in these facilities, .

3. Services that can be provided to railway undertakings:

- 1) additional services:
 - a) traction current, charges for which shall be shown on the invoices separately from the charges for the use of traction current supply facilities,
 - b) pre-heating of passenger trains,
 - c) fuel supply, shunting and other services provided for the operation of the installations,
 - d) services provided under contracts tailored to individual needs of a railway undertaking relating to:
 - provision of information and tracking of a train with the dangerous goods consignment,

– drawing up of the conditions and management of transport services and supervision of transport of extraordinary freight;

2) Ancillary services:

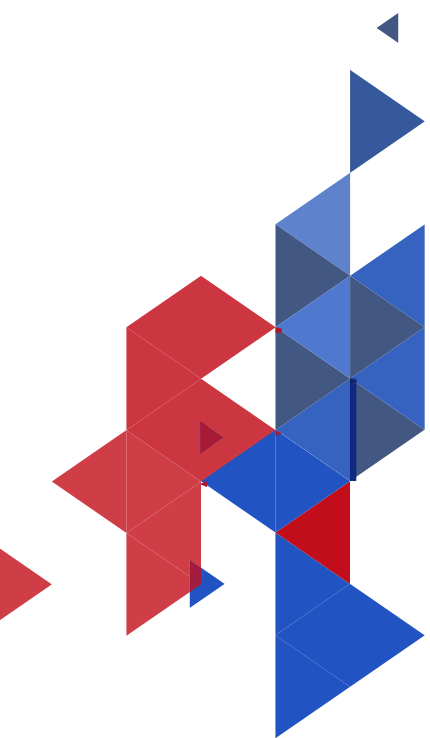
- a) access to telecommunication networks,
- b) provision of supplementary information,
- c) technical inspection of rolling stock,
- d) access to ticketing services in passenger stations,
- e) maintenance services supplied in maintenance facilities dedicated to high-speed trains or to other types of rolling stock requiring specific facilities..

Annex III Scope of the issues that are governed by the agreement referred to in Article 38a.5 of the Act

The agreement referred to in Article 38a.5 shall in particular define:

- 1) the term of the agreement corresponding to the period for which the programme referred to in Article 38a.3 has been established and to the period for which a business plan of the infrastructure manager is to be adopted;
- 2) the railway infrastructure and the service infrastructure facilities covered by the agreement;
- 3) the rules of infrastructure management, including infrastructure maintenance and refurbishment, together with defining backlogs in that respect;
- 4) goals with regard to efficiency focused on the user, including indicators of their achievements, comprising in particular:
 - a) expecting reliability,
 - b) expected punctuality,
 - c) expected results in terms of the improved safety level,
 - d) actions focused on the environmental protection,
 - e) the rules of determining the scope and size of actions concerning infrastructure maintenance and refurbishment,
 - f) the rules of introducing operational limits, among others, relating to execution of investments and repairs of the infrastructure,
 - g) the rules of adjusting infrastructure parameters to the existing demand,
 - h) the rules of preventing occurrence of overloading of elements of infrastructure,
 - i) asset management rules;
- 5) principles for dealing with major disruptions to train operations and emergency situations, including the plans for dealing with these cases and situations, including information to users of the railway infrastructure;
- 6) the method of allocation of costs to individual types of services offered to applicants;
- 7) incentives to lower the costs of infrastructure provision and the level of fees for access, in particular, incentive mechanisms consisting in inclusion in the infrastructure manager' costs rewards and bonuses for employees for proper execution of quality goals indicated in the agreement and for optimising the costs of infrastructure provision and the level of fees for access;
- 8) the rules of verifying justification to maintain the unused infrastructure;
- 9) co-financing amount, including for:

- a) financing allowances of the basic fee,
- b) lowering of the basic fee depending on the implementation of the performance scheme by the railway undertaking – provided that the manager agrees with the minister competent for transport application of such lowering;
 - 10) the rules of co-financing transfers and settlements;
 - 11) penalties, in particular for failure to comply with the required quality parameters;
 - 12) obligations of the manager in terms of reporting and information disclosures;
 - 13) remedial measures undertaken in the event whereby one of the parties has defaulted on its contractual obligations, including availability of co-financing;
 - 14) the terms and condition of earlier termination of the agreement;
 - 15) the rules and manner of controlling agreement performance.



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