

## **THE LEGAL BASES OF THE RAILWAY TRANSPORT SECURITY SYSTEMS MANAGEMENT IN POLAND.**

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### **ABSTRACT**

The article presents the rules of establishing the security systems of the railway transport. There are described the legal system grounds of it and the carriers' obligations in the field of the railway infrastructure management as well as the basic rules of the transport management. In the article you will also find the procedure of certifying and the implementation of the systems improving safety.

**The key words:** transport, safety, management.

### **1 DUTIES OF THE RAILWAY TRANSPORT OFFICE**

Safety of railway depends on a number of factors, in particular the technical condition of the railway infrastructure, its stock, arranging the rail transport, the workers' qualifications and their properly done duties. The safety supervision in the railway transport is the part of the Railway Transport Office duties. It was created on 1<sup>st</sup> June, 2003 after the Main Inspectorate of Railway had been transformed. Its chief framework include: the control over obeying the rules of operating the carriages and engines as well as about the rail-road maintenance. To be more precise, it is about checking the technical conditions suitable for rail-road lines and railway sidings together with the railway devices and their maintenance, the conditions of the rail transport on the tracks and railway sidings and the technical rules of using the railway machines. The Office keeps the national record of the railway vehicles and also it supervises the carriage of hazardous goods.

Moreover, within the scope of the Office there are the activities connected with issuing certificates authorization and safety certificates. Besides, it controls the management of safety systems as well as it deals with implementing and developing the range of safety regulations. It is all done by considering the application forms connected with approving the internal rules submitted by carriers, the infrastructure administrator and the railway sidings users.

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Also, the Office supervises the process of gaining the required qualifications and doing the duties by the workers who are directly responsible for the railway safety as well as engine drivers. In case of railway collisions, the Office takes control of the completion of the after-collision recommendations. These recommendations are passed on by the National Commission of Investigating Railway Accidents. If it is required, the Office prepares the safety assessment in the railway transport and the annual reports about rail-road safety[1].

## **2 RAILWAY TRANSPORT LICENCE**

The aim of licensing is to ensure that the rights to the railway market access are equally available to those employers who want to deal with both carrying people and goods and also rail service. To assure you that both the railway service and the consumers' safety are done in a proper way, there are some requirements for the railway entrepreneur necessary to complete. The most important ones are: - good reputation, - financial credibility, - job reference and skills, - the access to the railway stock, - civil liability.

The tasks within the above-mentioned areas are done by the Licence Department of the Railway Transport Office. One of its main competence is to deal with approving and disapproving of licence, changing or increasing the range of the licence, its suspending and withdrawal. The Licence Department analyses the documents attached to the application forms about the licence in terms of law, formal and financial aspects so that there is created a precise picture of the current situation of an applicant. All this is necessary for the chairperson of the Railway Transport Office to take the proper and fair decision about granting or not the licence or giving only temporary licence. The workers from the Department are obliged to give information and advice to those applying for the licence and if it is necessary to correct the documents according to the valid legal regulations [2].

Also, these people (namely workers) consider the railway entrepreneurs' complains about granting the licence. In order to receive the licence the infrastructure administrators and railway carriers are obliged to prepare the System of Safety Management. Its goals are: - to fulfil common safety requirements, - to be compatible with the safety rules in the particular country, - to use common methods of safety assessment.

The basic element of the System is an individual programme of improving safety which is prepared by an infrastructure administrator and the railway carrier. Such a programme defines the goals of those people within the above-mentioned range and also the amount parameters of reaching the particular safety level. The document should contain the description of procedures which have been implemented in a company on the basis of the goals referring to improving safety programmes. Besides, the programme is completed with the procedures of: - gaining technical standards which can be found in the national safety rules, - methods of conducting risk assessment and risk supervision, -the staff training programmes. You should not forget, while preparing such programmes, about social risk as well as the activity of other people. All this is to make sure that any accidents, incidents and other dangerous

events will be reported, analysed and investigated and that all the necessary precautions should be taken, at first. Periodical audits in companies are very helpful in the process of safety control [3].

### **3 SYSTEMS OF SAFETY MANAGEMENT**

The document that confirms establishing the system of safety management by the infrastructure administrator together with the ability to fulfil all the necessary requirements needed to design, operate and maintain the railway infrastructure is co-called the Safety Authorization. This document is issued by the chairperson of the Railway Transport Office.

The process is conducted in the following way: 1. the infrastructure administrator submits an application form referring to authorization; 2. if all the regulations are fulfilled by the administrator, especially in terms of supervision of rail-road and signalling; 3. the application form is accepted and the authorization is given.

The document is valid for five years and then it is extended for the next five years if the infrastructure administrator submits an application form. In case of essential changes made in the railway infrastructure, signalling, in electricity powering or in the rules of operating and maintenance, the owner of the authorization immediately has to inform the chairperson of the Railway Transport Office about these things. Next the authorization ought to be updated – the whole document or only a part of it. The chairperson of the Railway Transport Office can make the administrator of infrastructure change the safety authorization when the safety regulations have been changed. Within the scope of his authority the chairperson can withdraw the authorization. It happens when the administrator does not fulfil the necessary requirements in terms of safety. Then the chairperson takes a negative decision in a written form.

To confirm the ability to carry out the rail-road move safely, to those who are exempted from the obligation of gaining the safety certificate and authorization, only certain types of safety certificates are granted. These certificates are given to the railway sidings users by the Railway Transport Office. They have to possess certain devices that the building inspection allows them to operate. These users are supposed to prepare certain internal rules by themselves which refer to safety. These rules should include technical conditions as well as requirements about safe railway transport management and the infrastructure maintenance. Above all, the rules should take into account the regulatory requirements for maintenance and operating the railway machines. But if there is no administrative and lawful background, those users can keep to the rules of the administrator with whom their railway siding is linked. There is also a possibility of charging the carrier who wants to operate their railway siding with the documents preparation. The above-mentioned carrier provides the Office with a list of all the certificates that he has obtained so far and a declaration about good technical standards of those machines [2]. The railway siding user submits another declaration which says that all the employed people are skilled workers. In agreement with the railway infrastructure administrator the railway siding user makes the statute of the railway siding work [4].

Together with the safety certificate application form, the user attaches the latest duplicate of the authenticated deed of the ownership taken out from the National Journal and a document that confirms the legal fees have been paid in accordance with the Decree of the Infrastructure Ministry (29<sup>th</sup> February, 2008). If the application is incomplete and there are no corrections made in certain days' time, the application is not even considered.

#### **4 COHESION OF THE RAILWAY TRANSPORT SAFETY IN THE EUROPEAN UNION**

Cohesion can be treated in different aspects: technical, functional, syntactic or semantic. As far as the railway transport is concerned, the law, environmental, geographical and linguistic conditions are essential. All of these aspects play an important part although what is most commonly associated with the railway is technical and functional areas out of the above-mentioned.

Generally, cohesion means all the properties of solids, any structure or a system or any other material or non-material product which possesses the ability to remain exactly the same as it has been created in certain conditions on the understanding that some internal integrity conditions are not disturbed. It should be remembered that the whole railway system is extremely complex, that is why it is much easier to talk about cohesion in the railway system in terms of information technology systems. It will be particularly appropriate to the devices and the systems of operating the rail-road.

In order to ensure the cohesion of the railway safety system, solicitude for the quality of the system, the stability of the external conditions of the system and improving the internal regulations of integrity are very important to be cared for. In this area the tasks should be equally divided between the parties that are interested in this enterprise, both while preparing the system as well as maintaining it and also making it function in a proper way [5].

The key factor that determines the roles division is the safety aspect and the obligations out of the European Union membership and other contracts and international agreements in which Poland is the party. It is necessary to establish a certain institutionalized administrative structure which will function for the benefit of the railway system cohesion and the one that will be responsible for international cooperation. There are also other aspects that ought to be taken into consideration while thinking of such a structure, namely the bases of competition, free flow of goods, the environment protection and health. It should be emphasized that the European Union membership has increased the number of the parties interested in functioning of the National Railway System. At the same time a set of complex regulations has been introduced to be fulfilled, such as: remaining the arranged schedules, a range of objectives and geographic reach. The key directives about this issue are the following: 91/440/EWG- concerning the development of the Community railway; 96/48/WE and 2001/16/WE about the interoperability of the conventional railway and the one of the top speed and the Decision 1692/96/WE of the European Parliament together with the European Commission about the Community guidelines relating to the transeuropean rail-road system development.

Formally, the status of the party which is interested is represented by the European Union but in everyday life it is the European Commission and the European Railway Agency founded by the Parliament and the European Council Decree (nr 831, 2004). It means that the national Railway system has become an integral part of the Community Railway System.

Moreover its goals, the conditions of functioning and its development are subordinate to those rules which are widely considered to be common, according to the Treaties: WE and the Accession Treaty. It also means that external conditions about operating the national railway system together with their internal regulations of its integrity undergo a modification caused by the development of the transport market and political factors.

In this context, interoperability can be treated as the basis of the cohesion of the Community. As to the national system, it is the basis of the cohesion in such a range, in which the Community regulations are appropriate to serve in the railway system of a particular member country. It directly refers to the very part of the national railway system which has been ranged to the transeuropean railway system of the top speed and the conventional one. National solutions are used for the area in which the Community ones are not suitable.

The basic set of normative files concerning ensuring the cohesion of the railway system are: the Law of 28<sup>th</sup> March, 2008 about the railway transport (Dz.U nr16, poz.94 2007 with later changes) and the Law of 29<sup>th</sup> August 2003 about the change of the bill about the system of compatibility assessment (Dz.U nr249, poz.1834 2007 with later changes). In wider context, other regulations are also very important here and serve a purpose. These are such ones which directly refer to the conditions which determine the internal integrity system of the railway. Particularly, it concerns the building regulations, the Law of Building Products used in connection with railway constructions and the rules about carrying dangerous goods. Of great importance there are also the requirements in the rules which can be found in international contracts and agreements. They are not based on the European Union rules, for example COTIF- the Convention of the International Transport, RIV- the rules about mutual using the railway carriages in international communication and RID- the Statute of International Carrying Dangerous Goods[6].

## LITERATURE

- [1] Dąbrowska – Bajon M., Podstawy sterowania ruchem kolejowym. Funkcje, wymagania, zarys techniki, Warszawa 2002. s. 30 and next
- [2] Ustawa z dnia 28 marca 2003 r. o transporcie kolejowym, Dz. U. z 2007 Nr 16, poz. 94. with later changes, art. 19, 22.
- [3] Pacuszki A. ( red ) , Transport towarów - poradnik zleceniodawcy i przewoźnika, Warszawa 2009. s. 30 and next
- [4] Goryszewski H., Świdorski F., Eksploatacja handlowa kolei, Warszawa 1997. s.300 and next
- [5] Gaca S., Suchorzewski W., Tracz M., Inżynieria ruchu kolejowego, Warszawa 2009, s. 10 and next

[6] Pogonowska – Szustkiewicz A., Encyklopedia Międzynarodowych Organizacji Kolejowych, Warszawa 2003. s.64 and next

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