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## **South East Europe Rail Reform Progress**

**Report 2012**



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## South East Europe Rail Reform Progress Report

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## ABBREVIATIONS

RRB	Railway Regulatory Body
RMRA	Rail Market Regulatory Agency
ZFBIH	Railway of Federation of BIH
RU	Railway Undertaking
IM	Infrastructure Manager
MZ Transport	Macedonian Railway Transport Company
SHS	Albanian Railway company
EDI	Electronic Data Interchange
HZ	Croatian Railways
RID	Regulations concerning the International Carriage of Dangerous Goods by Rail
RNE	RailNetEurope
COTIF	Convention Concerning the International Transport of Goods by Rail
RM	Regulatory Manual
NS	Network Statement
PSO	Public Service Obligation
PSC	Public Service Contract
TAC	Track Access Charges
BC	Border Crossing
BCA	Border Crossing Agreement
IFI	International Financial Institutions
IPA	Instrument of Pre-Accession
ZRS	Railway of Republic of Srpska
PHARE	The Programme of Community aid to the countries of Central and Eastern Europe
TA	Technical Assistance
EBRD	European Bank for Reconstruction and Development
ZPCG	Montenegro Railways Passenger Company
ZICG	Montenegro Infrastructure Railway Company
MonteCargo	Montenegro Freight Railway Company
OZVS	Montenegro Rolling Stock Maintenance Company
RWWG	Railway Working Group

## 1. Introduction

Report on the progress in the rail reforms of the SEETO area has originated from the necessity to create a registry of the overall regional progress in the reform process. The main purpose of the report is to give an overview of the implemented reforms, in regard to the Addendum to the Memorandum of Understanding on the Development of the South East Europe Core Regional Transport Network for the South East European Railway Transport Area. Additionally, the report intends to provide support and assist SEETO Cooperation and Regional Participants in further planning of the reforms. The report was prepared by the SEETO Secretariat based on the data collected through the questionnaires from the Regional Participants and data provided on the SEETO Railway Working Group Meetings as well as with input from the 2011 EU progress reports. Given that the data collecting is an on-going process, some deviations are possible.

## 2. Background

Railway reform process introduced great changes in the EU historic railway system and different viewpoint of future development. Following the EU initiative to create an integrated railway area and concomitant reforming process, the South East Europe Regional Participants embarked on this tendency in order to make railways more competitive and more integrated in the transport system.

For the purpose of establishing the common railway market in South East Europe and boosting the process of rail reforms, the Addendum to the Memorandum of Understanding on the Development of the Core Regional Transport Network regarding the South East Europe Railway Transport Area (Addendum) was signed at the Third Annual Ministerial Meeting on 4<sup>th</sup> December, 2007.

The Addendum envisaged six objectives to be achieved in order to establish SEE common railway transport area:

- Establishment of effective regulatory institutions for the rail sector (establishing independent and competent public institutions and administrative and judicial appeal procedures; establishing licensing bodies, regulatory bodies, safety authorities and accident investigating bodies);
- Separation of integrated rail companies, their management independence and market orientation (preparation for the competitive rail market by separating infrastructure management and provision of transport services, including separate financial accounts);
- Open access to the market, ensuring interoperability and railway safety (granting fair and transparent conditions for access to the rail infrastructure, maintaining existing high level of interoperability);
- Financial stability and transparency of railway companies
- Facilitate border crossing (reducing delays at borders involving all actors; revising bilateral border-crossing agreements);

- Social dimension and social dialogue

According to the provisions of the Addendum, the Regional Participants committed to gradual aligning of legal and institutional framework with the railway legislation and framework of the European Union. In order to further fortify effective implementation, ministers of Transport adopted the Time table for the implementation of Addendum on Fourth Annual Ministerial Meeting held in Becici on 4<sup>th</sup> December, 2008.

Targeted time presented in the Table 1 refers to the month/year when measures were supposed to be implemented. It is noticeable that the Time Table envisaged rather ambitious implementation of the EU railway acquis before 2012. Even though Regional Participants are on the path of reforming their railway systems, goals of the Addendum were not fully achieved in the targeted time for a region as a whole.

Nevertheless, it has to be pointed out that the entire process of restructuring the railway system is an enormous challenge even for larger economies, because the whole legislative, institutional and market set-up should undergone systematic transformations. Therefore, the focus within the SEETO should be on the process itself and the quality of the reforms, rather than on the time span. In this continuous process, the SEETO strives to provide a larger regional platform where broad cooperation of the national railway systems is maintained and coordinated in terms of capacity building, sharing best practices and carrying out common projects.

In this respect, in 2006, the SEETO Steering Committee has established an expert Working Group on Railway and Inter-modal Policy to systematically deal with the administrative and regulatory procedures necessary to foster the railway reform process and development of a European railway area. The main objective of the RWWG group was to promote, facilitate and observe the implementation of the EU railway acquis in the SEETO region.

After adoption of Addendum by the ministers, further activities have become the subject of action of the RWWG, which focuses on monitoring reform process and on maximizing harmonisation in the sphere where regional approach is more effective than unilateral approaches taken by an individual Regional Participant.

The RWWG is consisted of national civil servants and rail representatives as well as the EC representative who chairs the meetings. The Railway Working Group additionally invites observers and speakers from EU countries to share experience and best practices in the reform process, so as to develop a regionally integrated railway market.

Additionally, in 2009, with the aim to facilitate implementation of Addendum, the Railway Reform Project was carried out, under the scope of SEETO, with the following outcomes: draft Regulatory Manual (RM) for a harmonised infrastructure charging regime; draft harmonised Network Statement (NS); Action Plans for the completion of RM and endorsement of NS; draft Regional Plan to improve regional railway operations, including passenger border controls on moving trains and introduction of Electronic Data Interchange (EDI) for freight operations and Action plan for greater integration of railway border crossing policies.

The Regional Participants are consulting about the outcomes of this particular SEETO project during preparation of the Network Statement and Border Crossing Agreements, while track access charges are calculated individually by every Regional Participant.

The regular meetings of the existing Working Group and the completed SEETO project on railway reform, as well as the future planned activities endorsed by the SEETO Strategic Work Programme 2012-2014 clearly show the commitment of the Regional Participants to continue with the process, as well as the key role SEETO is playing in enabling smooth coordination of different elements of such process.

Table 1 - Time table for implementation of the Addendum

Measures	Albania	Bosnia and Herzegovina	Croatia	The former Yugoslav Republic of Macedonia	Montenegro	Serbia	Kosovo*	SEE Region
Addendum item 2.1: Institution building	Jun-2009	2008	Dec-2009	Jun-2009	Jul-2009	2006	Feb-2010	Feb-2010
Addendum item 2.2: Separation, management independence and market orientation	Jun-2009	Feb-2009	Mar-2008	Feb-2008	Sep-2008	2010	Apr-2010	Apr-2010
Addendum item 2.3: Fair infrastructure access, safety and interoperability	2010	2010	-	Dec-2010	2010	2010	Dec-2010	Dec-2010
Addendum item 2.4: Financial stability	Jan-2009	2009	Jan-2007	Jan-2009	Jan-2009	2010	Dec-2009	2010
Addendum item 2.5: Border crossing	-	2009	-	Jun-2009	Dec-2008	2010	Jun-2009	2010
Addendum item 2.6: Social dimension and social dialogue	Jan-2009	2008	-	Dec-2009	2009	2010	2003	2010

### 3. Progress in implementation of the Addendum

The main idea of the Addendum was to serve as a landmark for rail reforms to the Regional Participants, in order to support creation of open railway area, with high level competition, improved transport services and efficiently utilised infrastructure capacity. This chapter is structured to present RP`s legislation and institutional advancement according to the Addendums` appointed goals. Achievement in rail reform will be analysed by Addendum`s six objectives: institution building; separation, management independence and market orientation; fair infrastructure access, safety and interoperability; financial stability; border crossing; social dimension and social dialogue by every individual Regional Participant.

\*"This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence"

### 3.1. Institution building

Recognising the fact that the opening of the rail market will require establishment of compatible railway institutions, which would regulate various fields of railway transport, the first goal of Addendum envisaged formation and fortification of rail administrative capacity, namely: railway licensing bodies responsible for issuing licences to railway undertakings; regulatory bodies in charge of allocating railway infrastructure capacity and levying charges for the use of railway infrastructure, and of safety certification; safety authorities.

- **Albania**

The Railway Code of the Republic of Albania from 2004 did not foresee institutional organisation according to the EU legislation, excluding establishment of the Directorate of Railway Inspections (accident investigation body). Consequently, the progress in setting up independent rail institutions was not recorded.

Albania is currently preparing the new Railway Law which would encompass all fields of rail legislation including the Railway administration and establishment of necessary rail authorities. Additionally, the Law should cover railway system, railway safety and accident investigation. Furthermore, prior to the endorsement of the new Law by the Parliament, efforts have been made for setting up of new regulatory functions. Accident investigation body for railways has been combined with the existing accident investigation body for aviation with further plans to include maritime sector within the scope of organisation.

- **Bosnia and Herzegovina**

The Law on Railways adopted in 2005 envisaged the establishment of rail authorities responsible for licensing, safety and accident inspection. In accordance with the Law, the Railway Regulatory Body (RRB) was established. The RRB is encompassing functions of licensing body, regulatory body, safety authority and accident investigation body, with separate unit for each function.

The Railway Regulatory Body had issued instructions regarding licensing, safety and accident investigation. Furthermore, the RRB had issued permits for railway vehicles. RRB did not issue any licences for railway undertakings (RU), currently the RRB is reviewing submitted documentation of the entity railway company ZFBiH. Railway Regulatory Body (RRB) is financed from the budget of the Ministry of Communications and Transport and employs 17 people.

From 2006, the annual report has been regularly published and submitted to the Ministry of Communications and Transport. The report contains three important fields: overall activity of the railway transport, record of accident and assessment of safety level and assessment of law application in the railway sector.

- **Croatia**

The administrative capacity of the railway authorities has been largely established. The Railway Directorate under the scope of the Ministry of Sea, Transport and Infrastructure, which is acting as a licensing body, currently has ten employees. Four licences have been issued by the Ministry for four rail Croatian companies (daughter companies of HZ Holding). In regard to the regulatory body, the Rail Market Regulatory Agency (RMRA) is operational

and active in the following fields: settlement of railway undertakings` (RU) complaints, supervision between infrastructure manager (IM) and RU regarding infrastructure charges, quality control of provided service and monitoring of the competition in the rail market. The Rail Market Regulatory Agency is fully staffed and operational. The Agency is submitting Annual report to the Croatian Parliament and it is entirely financed from the state budget. In the current composition the RMRA employs nine staff members with plans to further increase their administrative capacities.

Croatia's new safety authority began with operations in May 2011. The safety authority is supposed to implement procedures related to safety certificates of railway undertakings, in particular the approval of safety management systems, vehicle authorisation, train driver licenses and registers, the inventory of national safety rules and their reporting to the NOTIFID databank of the European Railway Agency. During 2011, the Agency was concentrated on preparation of internal documents needed for normal functioning. As a first step, the Statute of the Agency has been approved by the Government. During 2012, the Agency plans to increase their capacities and establish full functionality.

An accident investigation body has not been established. According to the existing Railway Safety Act, independent accident investigation body was envisaged in the scope of the Ministry of Sea, Transport and Infrastructure. However, in order to be fully in line with the relevant EU acquis, the Ministry is preparing new law which will enable establishment of one common accident investigation body for air, rail and sea transport.

- **the former Yugoslav Republic of Macedonia**

The former Yugoslav Republic of Macedonia has made considerable progress in developing of rail institutional capacity. The railway regulatory body was established on the basis of the Law on Railway Market Regulatory Agency in 2008. With the new Law on Railway System adopted in 2010 by the Parliament, the name of the Agency is changed to Agency for Regulating the Railway Market and the responsibilities have been increased. The licensing body is included within the scope of the Agency for Regulating the Railway Market. The main responsibilities of the Agency include quality control of the railway services, protection of passenger rights, ensuring non discriminatory track access charges, monitoring and prevention from unfair and discriminatory behaviour of the RUs and IM, monitoring the rail market and analysis of competition, maintaining the Registry of licenses, etc. The Agency is legally independent and is being financed from the percentage of track access charges. The Agency is responsible for its operations to the Parliament to whom it submits Annual report. In the present composition the Agency employs four staff members, with plans to increase staff number. Currently, only one licence was issued, to MR Transport (Joint Stock Company, owned by the state), by the Ministry of Transport and Communications in accordance with the procedure laid down in the text of Law on Railways (adopted in 2007, replaced by the Law on the Railway System). The national RU possesses the licence to operate freight and passenger transport.

The Directorate for Safety has been established within the Ministry of Transport and Communications according to the Law on Safety of the Railway System adopted in 2010. Currently, the Directorate employs ten staff members of different technical qualifications, which is sufficient for current normal functioning. The safety authority issued a series of vehicle authorisations, some of them according to the EU Technical Specifications of Interoperability.

In May 2010, the Committee for Investigation of the Rail Accidents and Incidents was established with three investigators, where the investigators were not permanently employed in the Committee. The new Law on Safety in the Railway System, adopted by the Parliament in 2010, envisaged the Committee as a permanent body within the Government as a part of the General Secretariat. The investigators are planned to be full time engaged to work in the Committee. The process of the employment of the investigators (one of them will be investigator in charge) is ongoing.

- **Montenegro**

The Railway Directorate began operating in March 2010, encompassing responsibilities such as licensing, regulatory activities and tender, contracting and supervision procedures for railway infrastructure. Additionally, under the scope of the Railways Directorate, it was envisaged to form the national safety authority. The Railway Directorate employs ten people, but in order to achieve full administrative capacities, total number of 17 employees is needed. Regarding accident investigation body, initially it was planned to form an authority within the Ministry of Transport and Maritime Affairs, while most recently new idea emerged to establish one common investigation body for all modes of transport. It was envisaged that the notified body should be established under the scope of the Railway Directorate. The Railway Directorate is being financed by budget resources.

- **Serbia**

According to the Law on Railways from 2005, the regulatory body is established in the scope of the Railways Directorate. The Directorate presents a legal entity, managed by the director appointed by the Government. Alongside regulatory functions, the Directorate is responsible for licensing RUs and IM, issuing the safety certificates, issuing the permits for rolling stock and infrastructure, providing opinions for development and business plans of the railway public enterprise and providing any additional expert guidance and assistance. The Railways Directorate is acting independent from rail operators and infrastructure manager and is financed mostly by the State (own revenues accounting for approximately 6%) with 31 employees. According to the new law on railways, the independence of this body will be further strengthened.

Serbia has yet to establish an independent accident investigation body.

- **Kosovo**

The Railway Regulatory Authority (RRA) has been established according to the Law on Regulation of Railways, adopted in June 2008. Within the RRA four bodies have been established: licensing body, safety body, market regulatory body and interoperability and notified body. The Railway Regulatory Authority is operational, with 12 employees. The RRA is financed by the Parliament. The activities of the Railway Regulatory Authority in 2011 were directed on drafting of all needed regulations and instructions for licensing, certification, authorisation and safety. New general Law on Railways, adopted in 2011, foresees establishment of independent accident investigation body under the Prime Minister Office.

The new Law on Railways which was approved on 15<sup>th</sup> September 2011 further transposes the EU rail legislation.

Table 2 presents an overview of the institutional development in the South East Europe.

Table 2 - Rail institutional reforms

Regional Participant	Licensing body	Regulatory body	Award authority for PSO contracts	Safety authority	Accident investigation body (AIB)	Notified body/ Designated body
Albania	No	No	Ministry	No	Yes	No
Bosnia and Herzegovina	Yes, four functions (licensing, regulatory, safety, investigation) are incorporated in the Railway Regulatory Board. AIB will be removed and integrated into AIB for air transport.			Yes	Yes	No
Croatia	Yes, within the Ministry of Maritime Affairs, Transport and Infrastructure	Yes, Rail Market Regulatory Agency responsible to the Parliament	Ministry	Yes, national safety authority started operating in May 2011	No, will be integrated with AIB for air and sea transport.	No
the former Yugoslav Republic of Macedonia	Yes, Agency for Regulating the Railway Market encompasses licensing function		Ministry	Yes, safety authority established within the Ministry	Yes, Committee for Investigation of Rail Accidents and Incidents	No
Montenegro	Yes, Railway Directorate encompasses licensing, safety and regulatory functions	Yes, in the scope of the Railway Directorate, planned integration into the Ministry.	Railway Directorate	Yes	No	No, envisaged in the scope of the Railway Directorate
Serbia	Yes, licensing, safety and regulatory functions are included in the scope of the Railways Directorate	Yes	Ministry	Yes	No	No
Kosovo	Yes	Yes, the Railway Regulatory Authority encompasses licensing, safety, market regulation and railway interoperability functions	Ministry	Yes	No, the Law on Railways (2011) prescribes establishment of investigation body under the Prime Minister Office, expected to be established during 2012	No, based on the new law notified body will be within the RRA

### 3.2 Separation, management independence and market orientation

The main intention of the second objective of the Addendum was to restructure railways into more commercially oriented companies in line with the relevant EU rail legislation and guidelines.

According to the provisions of Addendum, transport service and infrastructure management are intended to be separate and managed according to business principles. All relations between the railway operators and infrastructure managers should be placed under a contractual basis and executed under a transparent regulatory framework, while for railway undertakings operating freight and passenger services, profit and loss accounts have to be kept and published separately.

- **Albania**

The national railway company *Hekurudha Shqiptare* (HSH) has made internal reorganisation and is now operating with four business units which present a first step to account separation according to the EU rules. Albanian Ministry of Public Works and Transport is currently preparing new rail law which will enable complete separation of the national railway company. Albanian railways as well as the Ministry have been making internal preparation and necessary changes to make a smoother transition to the new system, but until the new law has been enacted, further alignment to the EU rail legislation will be limited.

- **Bosnia and Herzegovina**

The state Law on Railways adopted in 2005 stipulated separation of the public owned companies to infrastructure and transport operations. Although the entity-level railways have made organisational separation of infrastructure from operations, in terms of legal and financial independence the separation was not fully achieved. In the current position both entity-level railways are in a difficult financial situation and infrastructure management remains to be fully separated from railway transport operations. Nonetheless, entities' railway companies have made internal separation of accounts for infrastructure and operation (2009) as a first step towards the complete separation. Entities' railway undertakings (Railway of Federation of BiH, Railway of Republic of Srpska) have been publishing balance sheets and profit and loss accounts.

- **Croatia**

Railway Company "Croatian Railways has been transformed into a holding company according to the Act on Division of the Public Company adopted in 2005. The new holding company is consisting of four daughter companies (HZ Infrastructure, HZ Passenger Transport, HZ Cargo and HZ Train Traction) which are strategically coordinated and monitored by the overarching company HZ Holding. Management and accounts of infrastructure and transport services have been divided and companies are regularly publishing their balance sheets and profit and loss accounts. The issue that should be additionally addressed is further functional separation of HZ's Infrastructure Company and HZ Holding in order to avoid any risks to market access and fair competition.

- **the former Yugoslav Republic of Macedonia**

Separation of the former PE Macedonian Railway Ltd was based on the Law on Transformation of the Public Enterprise Macedonian Railway and the Law on Railway System in 2005. In August 2007 two new companies were established: Macedonian Railway Transport JSC-Skopje (shares are completely owned by the state) and PE Macedonian Railway Infrastructure-Skopje.

Report on economic indicators and future development plans of the railway companies have been prescribed in the Law on the Railway System in order to enable greater business transparency. According to the Law on the Railway System, both the infrastructure manager and the railway undertaking are obliged to maintain records of balance sheets and profit and loss accounts. Railway undertakings are keeping these records, but they are not published on their web site. In addition, the RU and IM are obliged to prepare the three-year Business plan each year, which consists of three-year Investment plan and one-year Financial plan. The RU and IM are obligated to submit reports to the Government of the former Yugoslav Republic of Macedonia each quarter, where the progress is followed by the Government. Currently, the RU does not have separate accounts for freight and passenger transport.

Financial needs of the IM are determined in the three-year National Railway Infrastructure Programme, enacted by the Assembly of the former Yugoslav Republic of Macedonia (last created for 2011-2013). Additionally, the IM each year prepares the Annual Programme for the Railway Infrastructure, for the funds which are secured in the budget of the Ministry of Transport and Communications. In the end of the year, the IM prepares the Implementation report of the abovementioned Programme.

- **Montenegro**

The Law on Railways from 2004 has set the ground for the unbundling of the state-owned company. Initial separation to infrastructure and transport company was followed by further restructuring of the railway companies. Since December 2010, Montenegro Railways have been segmented into four companies: Infrastructure, Passenger, Freight and Rolling Stock Maintenance Company. Process of division of integrated railways was done completely, all the spin off companies have separate accounts with balance sheets and annual business report published regularly.

- **Serbia**

A new law on railways has been adopted by the Government in August 2011 and has gone in the parliamentary procedure. The new law will bring progress in the opening of the rail market. In May 2011, followed by Governmental adoption of two acts (Decision on the Transformation of the Legal Status of the Public Enterprise Serbian Railways into the Joint Stock Company "Serbian Railways" and Decision on Amendment of the Establishing Act of the Public Enterprise "Serbian Railways"), previously integrated company "Serbian Railways" was transformed into a joint stock company. The joint stock company is comprised of one coordinating company and four daughter companies: Subsidiary for Public Railway Infrastructure Management; Subsidiary for Public Passenger Railway Service and Rolling Stock Maintenance within that type of transport; Subsidiary for Rail Freight Traffic and Rolling Stock Maintenance within that type of transport and Subsidiary for Management of

Real Estate and other Assets of JSC "Serbian Railways". The establishment of the new holding structure is expected in the beginning of 2012.

- **Kosovo**

The unbundling of railway infrastructure and the train operations advanced according to the provisions of the Law on Railways from 2008. The two new companies (infrastructure manager - INFRAKOS and train operations - TRAINKOS) were formed in September 2011. Unbundling of the separated companies has been achieved.

Currently the Ministry of Infrastructure is reviewing Multi Modal Development Strategy in which development of the whole railway sector is further planned and elaborated.

Table 3 shows restructuring of the integrated railway companies and their further division to spin off companies, as well as existence of new entrants.

Table 3 – Separation of the rail companies and market opening

Regional Participant	Complete organisational separation of infrastructure and transport services	Division of infrastructure and transport services	New entrants
Albania	No	No	No
Bosnia and Herzegovina	No, just internal reorganisation of the incumbent rail companies	No	No
Croatia	Yes, holding company established in 2005	Four HZ Holding subsidiaries: passenger, freight, traction, infrastructure manager	No
The former Yugoslav Republic of Macedonia	Yes, separation was completed based on the Law adopted in 2005	Two companies were established; transport and infrastructure	No
Montenegro	Yes, integrated company separated to four companies	Since December 2010 four companies are present; infrastructure, passenger, freight and rolling stock maintenance company	No
Serbia	Yes, based on Governmental decision adopted in June 2011 integrated company transformed into joint stock company	Joint stock company comprises of four daughter companies; passenger, freight, infrastructure manager and asset management	Yes, national privately owned companies
Kosovo	Yes, two companies have been formed in September 2011	Integrated company separated to infrastructure and train operations	No

### 3.3 Fair infrastructure access, safety and interoperability

The Regional Participants committed to ensure clear and transparent conditions for access to the rail infrastructure. Infrastructure access conditions were determined by international practice and include: formulation of track access charges, allocation of infrastructure capacity, publication of Network Statement and conclusion of infrastructure access contracts between IM and RUs.

Considering that the railway area of South East Europe, by its largest part, was built according to the same technical standards, commitment was made to maintain the existing high level of interoperability, and further develop rail infrastructure in line with the European Union's interoperability requirements.

Furthermore, this goal addresses rail safety by setting up safety targets and safety management system. In addition, it is envisaged to implement Community legislation on transport of dangerous goods by rail and certification of railway staff.

- **Albania**

Concerning that Albanian railways have not yet divided integrated rail company, the precondition for rail market opening is not fulfilled. The Draft of the Network Statement was prepared but has not been published. Further opening of the market and contractual relations between railway companies and the Government will become possible after the adoption of the new Law on Railways.

In addition to the preparation of the new rail law, the Ministry established four working groups to harmonise railway legislation with the EU's. In 2011, the activities of the working group were focused on preparation of the Regulation on Technical Exploitation of Railway and the Regulation on Transportation of Dangerous Goods by Rail.

- **Bosnia and Herzegovina**

The Railways of the Federation of BiH published the Network Statement for 2010<sup>1</sup> (Bosnian version available on the web site). The Railways of Republika Srpska prepared a draft version of the Network Statement, but the draft has not yet been published, awaiting approval from the entity Government. Activities on infrastructure cost calculations and route capacity allocation have been finalised and adjusted for the current situation.

Even though not fully separated, both entity-level railways (Railway of Federation of BiH, Railway of Republic of Srpska) signed infrastructure access contracts between infrastructure manager and railway operator for the 2011.

Interoperability directive and train driver license are not yet adopted, waiting for the agreement at regional level and establishment of the Transport Community.

The state Law on Transport of Dangerous Goods is currently in the parliamentary procedure. Presently railways are acting according to entity laws, Law on Transport of Dangerous Goods in Republic of Srpska in 2008, where RID (regulations concerning the international carriage of dangerous goods by rail) provisions are included and Law on Transport of Dangerous Goods in Federation of BiH, which is a remnant of the former Yugoslavia law.

- **Croatia**

Since 2009, infrastructure manager has been regularly publishing the Network Statement in Croatian as well as in English, last being released for 2013<sup>2</sup>. The Network Statement has been done according to the RNE (RailNetEurope) format with thoroughly elaborated

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<sup>1</sup> <http://www.zfbh.ba/zfbhbax/Images/Izjava%20o%20mrezi/IZJAVA%20O%20MREZI.pdf>

<sup>2</sup> <http://www.hznet.hr/izvjesceomrezi>

infrastructure cost calculations. According to the Railway Act, infrastructure access contracts between IM and RUs have been published on yearly basis.

The Ministry is planning to draft a new law which would encompass interoperability and safety, in which train driver licensing and safety management system should be elaborated in detail.

Transport of dangerous goods is being provided according to the COTIF convention (Convention Concerning the International Transport of Goods by Rail), more precisely by regulations concerning the international carriage of dangerous goods by rail – RID.

- **the former Yugoslav Republic of Macedonia**

In regard to the network statement, according to the Law on the Railway System adopted in 2010, the IM is obliged to prepare and publish the NS. In December 2011, the IM published Network Statement for 2012<sup>3</sup>. The NS is published on the infrastructure managers' web site in Macedonian language, while the English translation is being prepared. Infrastructure access contracts between IM and RU are signed on yearly basis, in which services and track access charges are determined. The PE MR Infrastructure-Skopje acquired RNE candidate status, starting from 1<sup>st</sup> January 2010. Details of the contract are not published. The new Law on Interoperability was enacted by the Parliament in 2011.

Legislation on the licensing of train drivers was adopted to transpose the EU rules. According to the Law on the Safety of the Railway System adopted in 2011, the Safety Directorate is the responsible authority for issuing the train driver's license, safety certificate and safety authorisation.

- **Montenegro**

According to the provisions of the Law on Railways from 2004, the IM is publishing network statement, the last being published for 2011<sup>4</sup>. Full harmonisation of the network statement to the RNE format is foreseen within the new law on railways. The Law is currently under public consultation.

Further alignment with the EU legislation on rail transport safety, in particular with the Directives on train driver licences and interoperability, is in preparation process. The Interoperability Directive needs to be transposed and implemented.

The Law on Transport of Dangerous Goods, aligned with the COTIF convention, was adopted in 2008.

- **Serbia**

Draft version of the Network Statement was prepared but has not been published. The new Law on Railways includes the obligation of network statement. Alongside the new law, bylaws are already being prepared in which the content and format of the network statement will be described in details. The EU interoperability and safety rules have not been introduced into the national legislation. However, the new draft Law on the Railway

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<sup>3</sup> <http://www.mzi.mk/documents/OBJAVA-2011-2012---11.12.2011.pdf>

<sup>4</sup> <http://www.zicg.me/Izjava%20o%20mrezi/new/Izjava%20o%20mrezi%202011%20Precisceni%20tekst.eng.pdf>

Safety and Interoperability has been completed by the Ministry; it is expected to be adopted in 2012.

Currently public service obligation as well as infrastructure access contracts between railway companies and the Government are not placed on contractual basis in line with the relevant EU Regulation.

Rules on Transport of Dangerous Goods by Rail, in line with COTIF convention, were adopted by the law enacted in November 2010.

- **Kosovo**

Due to the recent adoption of new Law on Railways (2011) and unbundling of Railway Company, the Network Statement was drafted but has not been published. Major issue is determination of track access charges, which are still being discussed.

Prior to the adoption of the new law, during 2011 as a preparatory phase several main documents have been prepared: agreement on transfer of assets, agreement on financing of infrastructure and PSO (Public Service Obligation) agreement. Following the separation process, RU and IM have sent their proposals regarding PSO contract and IM Agreement and are now expecting final decision from the Government.

Further alignment with the EU rail acqui regarding train driver licensing and introduction of railway safety system is expected in the coming period. The Law on Transport of Dangerous Goods has been adopted; the provisions of the law are expected to be implemented in 2012.

Table 4 presents implementation of safety and interoperability requirements and provision of access conditions to the rail infrastructure.

Table 4 – Access to the rail infrastructure, safety and interoperability requirements

Regional Participant	Published Network Statement	Safety management system implemented	Train driver licensing, certification, access to training centres, criteria for examiners	Entity in charge of vehicle maintenance, certified maintenance workshops
Albania	No, draft prepared	No	No	No
Bosnia and Herzegovina	Yes partly, only one entity level railway company, not updated	No	No	No
Croatia	Yes, published regularly	Yes, needs to be audited by the NSA	No	No
the former Yugoslav Republic of Macedonia	Yes, published regularly	No	Yes, EU legislation transposed	No
Montenegro	Yes, published regularly	No	No	No
Serbia	No, draft prepared	No	No	No
Kosovo	No, in preparation, planned to published for 2013	No	No, Under preparation	No, under preparation for certification

### 3.4 Financial stability

In order to place railway companies on financially viable basis, certain mechanisms for reducing their indebtedness to a level compatible with accepted international standards had to be established. Annual and multi-annual contracts between the infrastructure manager and the state, together with the public service obligation contracts are recognised instruments for contractual relations between RU, IM and the State. Multiannual contracts between the infrastructure manager and the state establish the amount of the annual public funding for railway infrastructure, the allocation of the funds, and prescribes obligations of the infrastructure manager. Public service obligation contracts are a concept of compensation of passenger services, where the difference between the transportation costs incurred and amount approved for tariffs is being compensated.

- **Albania**

Indebtedness of railways and multiannual contracts between the infrastructure manager and the state have not yet been solved due to the existence of integrated railway company. The state compensates HSH for passenger services.

- **Bosnia and Herzegovina**

In regard to indebtedness, entity-level authorities of BIH adopted regulations about the indebtedness of railway undertakings and managers. Furthermore, annually, entities and railway companies are signing contracts relating to indebtedness of railway undertakings and compensation of public service obligations for passenger transport. Infrastructure Management Contracts between the infrastructure managers (Management Board of Integrated Railways) and the relevant entity Ministries have been signed annually.

According to the EU progress report<sup>5</sup>, the acquis on public service obligations (PSO) remains to be fully transposed and a PSO award authority to be set up.

- **Croatia**

Indebtedness of railways undertakings and infrastructure managers are regulated according to the general financial laws of Croatia. Railway infrastructure manager, HZ Infrastructure and the Ministry have signed multi-annual contract in June 2008. According to the provisions of multi annual agreement, the IM is delivering all the necessary documentation such as financial reports for 2010, the Business Plan and the Railway Infrastructure Construction, Modernisation and Maintenance Plan for 2011.

Current public service obligation is not completely in line with the corresponding EU legislation. PSO has been compensated annually through public service contracts since 2007 (HZ Passenger Transport). The PSO contract does not include cost efficiency indicators and it covers the difference between the real cost of services and the companies income.

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<sup>5</sup> [http://ec.europa.eu/enlargement/press\\_corner/key-documents/reports\\_oct\\_2011\\_en.htm](http://ec.europa.eu/enlargement/press_corner/key-documents/reports_oct_2011_en.htm)

- **the former Yugoslav Republic of Macedonia**

In order to reduce historical rail debt of both state owned rail companies (railway undertaking and infrastructure manager), the Government reprogrammed their debts as state shares in the two companies.

Multi-annual contract between the Ministry of Transport and Communications and the infrastructure manager has been signed for the period of 2011-2013. The multi-annual contract provides the IM with better management of infrastructure funding and contributes to maintaining higher quality and safety levels.

Concerning PSO, the Ministry of Transport and Communications and MR Transport JSC-Skopje signed in February 2011 a public service contract (PSC) for period of three years (2011-2013). The amount of compensation was set to equal the amount of TAC paid by the MR Transport JSC-Skopje to the IM. According to the Railways Law, public passengers' services will be performed by MR Transport JSC-Skopje (freight and passenger transport operator) until its privatisation and/or liberalisation of railway transport.

- **Montenegro**

Regarding the indebtedness of the integrated rail company, majority of the debt after the restructuring was overtaken by the Government. Contractual relations in railway transport were established by adoption of the Law on Railway Transport Contracts in August 2010. The Law encompassed provisions on passenger rights and obligations.

Technical assistance project (TA to transport sector in Montenegro) was conducted to determine financial capacities of four independent companies and to provide insight into financial functioning of the railway system in general as well as cash flow within the four mentioned companies. As the result of the study, in the new Network Statement (2012) track access charges for freight and passenger transport will be stated.

In the new draft railways law, provisions for introduction of PSO are included; the law is expected to be adopted in the mid 2012.

- **Serbia**

In May 2011, "Serbian Railways" was transformed into a joint stock company, with four following subsidiaries: Subsidiary for Public Railway Infrastructure Management; Subsidiary for Public Passenger Railway Service and Rolling Stock Maintenance within that type of transport; Subsidiary for Rail Freight Traffic and Rolling Stock Maintenance within that type of transport and Subsidiary for Management of Real Estate and other Assets of JSC "Serbian Railways". The, new joint stock company will become the owner of all railway assets, whilst now the state is the owner. Concerning indebtedness, holding company and three daughter companies will be without any debt and the Subsidiary for Management of Real Estate and other Assets of JSC "Serbian railways" will inherit and manage all the historical rail debt. Subsidiary for Management of Real Estate and other Assets of JSC "Serbian Railways" will be in possession of most of the land.

Currently, there is no contract to compensate public service obligations in line with the corresponding EU Regulation. Plans for introduction of the EU harmonised PSO and multi-annual contract are expected after the enactment of new railway law.

PSO contract between the state and the railway company has not been signed. However, some progress can be reported, the decree was adopted in 2009 in which methodology for calculating the full recovery cost of transport services was presented. Furthermore, the regulation on conditions and procedures for performing the PSO and means of compensation of the PSO was enacted in 2010. Alignment with the EU rail acquis can be expected after the complete separation of Serbian railways and establishment of passenger company and PSO authority.

- **Kosovo**

The integrated state company was not heavily indebted. After separation, based on governmental decision, the Government accepted all remaining debts of two new rail companies INFRAKOS and TRAINKOS.

After segmentation of the rail companies, the RU gave a proposal regarding PSO contract to the Government (Ministry of Economical Development) and is now expecting final decision. The final approval and the implementation are expected during 2012.

Table 5 provides an overview of established contractual relations between state and the rail companies. Table only presents an overview of multi-annual and PSO contracts, due to the higher level of complexity of the these contracts.

Table 5 – Contractual relations between the state and the rail companies

Regional Participant	Multi-annual contracts between the state and the infrastructure manager	Contract to compensate Public Service Obligations on passenger transport and award procedure
Albania	No	No, state compensates for passenger services by direct award
Bosnia and Herzegovina	No	Yes, not completely in line with the EU legislation, PSO acqui remains to be fully transposed. Direct award.
Croatia	Yes, three year contract. But annual allocations reduced regularly	Yes, not fully aligned with the EU legislation. Direct award
the former Yugoslav Republic of Macedonia	Yes, three year contract signed for period 2011-2013	Yes, PSC signed for three years, price was set to reimburse at the level of track access charges. Direct award
Montenegro	No	No, foreseen in the new law, planned for 2013
Serbia	No	No, foreseen in the new law. But there is a separate allocation for this.
Kosovo	No, expected to be signed during 2012	No, proposal sent to the Government. Direct award

### *3.5 Border crossing*

In order to reduce excessive border crossing waiting times and facilitate movement of passengers and goods, the Regional Participants agreed to revise bilateral border-crossing agreements (BCA) and align them with the relevant EU legislation. Revised border-crossing agreements would introduce several novelties such as joint border station, passenger control on moving trains etc. which would ultimately expedite the border crossing procedures.

Progress has been made in negotiations for a border crossing agreement between Montenegro and Albania; the SEETO framework agreement was used as a basis for the negotiations. On 22<sup>nd</sup> June 2011, the joint expert group performed technical inspection with common conclusion that Tuzi (Montenegro) should be the joint border station. The draft of Agreement has been distributed to all relevant Ministries for final comments. The Agreement is expected to be signed in June 2012. Adaptation of the station building is not planned and implementation of the agreement will be immediate.

In Croatia, border crossing agreements from the past period with Slovenia and Serbia do exist. Negotiations regarding new border crossing agreements according to the EU legislation have started with Slovenia and Hungary. The SEETO framework BC agreement was used as a basis.

The BC Framework Agreement between the Governments of the former Yugoslav Republic of Macedonia and Kosovo has been signed in September 2011. The Law on Ratification on this BC Agreement was enacted by the Parliament of the former Yugoslav Republic of Macedonia on 14<sup>th</sup> February 2012, and published in the Official Gazette no. 25/2012). Furthermore, the BCA is approved by the Kosovo Government and ratified by the President of Kosovo on October 2011. Additionally, the Ministry of Transport and Communications (the former Yugoslav Republic of Macedonia) and the Ministry of Infrastructure (Kosovo) have sent letters to the relevant authorities in regard to protocols which are arising from the Agreement (police, customs, infrastructure managers' agreement etc). Implementation of the BC agreement is expected in 2012. The joint border crossing station has been established in Hani i Elezit / Djeneral Jankovic (Kosovo).

In addition, the Ministry of Transport and Communications (the former Yugoslav Republic of Macedonia) has sent an initial letter for the opening of the BC negotiations to the respected Ministries of Serbia and Greece.

Montenegro and Serbia signed the border crossing agreement, which was ratified in mid 2010, but provisions of the agreement have not been implemented yet. Four Protocols, which are emerging from the framework border crossing agreement, have been signed between all relevant border institutions. Additionally, in April of 2011, first meeting of the Joint Border Commission comprising delegations of all relevant institutions of both concerned countries was held. Preliminary design for the common railway station (Bijelo Polje, Montenegro) was finished in December 2011. After the adoption by the involved parties, Montenegrin infrastructure manager plans to start with the preparation of the main design and adaptation of the railway station for accommodation of Serbian border authorities. Adaptation of the border station facilities and the implementation of the BCA agreement is expected by the end of 2013. The Agreement needs to be further aligned with the EU legislation.

The Border Crossing Agreement between Serbia and Bulgaria has been signed, but encountered problems during implementation, due to the discrepancies with the EU law. Currently, the agreement has been sent to the Bulgarian side to make necessary changes in line with EU legislation.

Serbia has taken initiative to begin negotiations with Croatia and Hungary. Draft BC Agreement has been prepared by the Serbian Ministry of Infrastructure and Energy. The new Agreements have been drafted to include articles which provide border control of freight trains in marshalling yards in hinterland.

### *3.6 Social dimension and social dialogue*

Every Regional Participant individually is in continued process of adopting and amending social laws and conducting necessary measures. Due to the fact that this report is more focused on transport issues, this topic will not be elaborated in detail and only the main issues will be mentioned.

There are several laws which are regulating social area: law on labour, law on pension and law on safety of the rail system. Newly adopted laws on labour and laws on rail safety are being aligned with corresponding EU legislation, with large focus on worker labour rights and on-work safety.

Most of the railways of the region had problems with excessive number of employees which is affecting market oriented functioning. Because of that, the Regional Participants are conducting social retrenchment measures with large financial contribution from the IFI`s and the EU funds. These measures will contribute to reduction of indebtedness and better work organisation of railway companies.

In future analysis, the SEETO will pay larger attention to social retrenchment programmes and their contribution to market revitalization of railways.

## **4. Rail reform projects in the region (national and international initiatives)**

This chapter will offer insight in the various rail reform projects and studies done in the Regional Participants. The rail reform projects have been performed with the purpose to advance reforming process and enable transfer of best EU practices by international experts.

- **Regional initiatives**

Firstly, SEETO RWR/RSA<sup>6</sup> project will be mentioned, as the only project with a regional character. The regional railway reform project<sup>7</sup>, financed by the European Commission, was completed in 2009. This project intended to provide framework solutions, for the region as a whole, in the fields of infrastructure access and pricing regime as well as border crossings.

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<sup>6</sup> [http://www.seetoint.org/index.php?option=com\\_content&view=article&id=354&Itemid=95](http://www.seetoint.org/index.php?option=com_content&view=article&id=354&Itemid=95)

<sup>7</sup> Support for Implementing Measures for South East Europe Core Regional Transport Network Multi Annual Plan (MAP) 2008-2012

The most important results provided by the rail reform projects were: harmonised network statements, regulatory manual for harmonised infrastructure charging regime and railway border crossing framework agreements.

- **Albania**

The technical Assistance to the Ministry of Public Works and Transports has been established; Louis Berger is preparing a study with the aim of reviewing the current rail legislation and drafting a new railway law which should be in compliance with the EU Directives.

- **Bosnia and Herzegovina**

In 2008, the Twinning Assistance to the Ministry of Communications and Transport of Bosnia and Herzegovina was established. The twinning project had several components: building and strengthening the BIH Railway Regulatory Board, building and strengthening the infrastructure manager/s, strategy towards the conformity with the acquis communautaire. The twinning project had one million euro budget.

Study named "Assistance in Restructuring ZFB&F and ZRS" was conducted by the consultant APRI SPA in 2007. The project objectives were: drafting network statement, framework agreement between railway undertaking and infrastructure manager, track access charges, framework agreement between the infrastructure manager and the owner, infrastructure management plan, human resources planning and services provided between the infrastructure manager and railway undertaking.

- **Croatia**

The technical assistance project "Restructuring and Development of the Croatian Railway System within the Framework of the EU Legislation", which was funded by the PHARE 2006 programme, was completed in November 2010. The project eased the implementation of the relevant EU rail acquis into the national legislation and delivered several drafts of bylaws as well as draft model for the new law for railways, which will be used as a basis for the development of the new legislative railway acts in Croatia.

According to the proposals of the TA project PHARE 2006, working groups have been preparing new Railway Law and new Railway Safety Law, which will be in line with the new regulatory framework of the EU.

- **the former Yugoslav Republic of Macedonia**

Several projects have been conducted in order to alleviate restructuring of railways. The World Bank conducted project with the objective to improve the financial viability, productivity and effectiveness of railway operations in the former Yugoslav Republic of Macedonia. The project was comprised of four components which provided solutions for separation of integrated rail company, increasing operating capacity through equipment remanufacturing and procurement of new wagons, social mitigation, and mechanisation of track maintenance and infrastructure modernization. Under this project, the World Bank financed preparation of the Study for Track Access Charges, which gave guidelines for determining minimum access package, track access to service facilities and supply of services, additional services and ancillary services. A productivity improvement and cost

reduction study for both railway entities was completed. A PSO study was conducted for the RU and a study of railway track renewal of Corridor X (technical preparation and economic assessment) for the IM.

The Ministry of Transport and Communications has recently started with a Technical Assistance Project "Support for Rail Reforms in the former Yugoslav Republic of Macedonia" with German consultancy firm Railistics GmbH. The main objective of this project is to provide assistance in structuring and calculating PSO, develop the functions of the Safety Directorate and help developing the regulatory capacity of the Rail Regulatory Agency. The project is financed from the EBRD loan.

- **Montenegro**

In order to further support the Restructuring Strategy of the Railways of Montenegro a number of studies have been implemented. Within the scope of Montenegro Rail Infrastructure Rehabilitation Project II, financed by the EBRD loan, reform project has been implemented with several key goals for railway infrastructure: implementation of effective track access charge payment mechanism following the adoption and publication of the Network Statement in January 2009; introduction of a transparent contractual relationship between Infrastructure, rail operations and the state; opening up of rail maintenance and rail real estate to partial or full private sector participation.

As a part of the project "TA to Transport Sector in Montenegro" under the IPA 2007, the Ministry of Transport and Maritime Affairs and the consultant NTU made analysis of the financial capacities of four independent companies within the railway sector in Montenegro (ZICG, ZPCG, MonteCargo and OZVS). The main purpose of the analysis is to provide insight into financial functioning of the railway system in general and cash flows within the four mentioned companies. Following the results of the abovementioned analysis the track access charges will be aligned between freight and passenger transport, in the new Network Statement. Additionally, project helped the establishment of the functions of the Railway Directorate and provided assistance to the Ministry in drafting the Law on Railways and Amending Law on Railway Transport Safety.

The EBRD financed project "Montenegro: ZPCG Rolling Stock Renewal Project" is in progress. As a part of the project a Programme for Institutional Strengthening of Railway Operators in Passenger Traffic will be elaborated. The expected outcomes are: draft of public service obligation contract and guidelines for improvement of business planning and budgeting process.

- **Serbia**

Currently the Ministry is participating in a twinning project with France. The main objective of the project is to further align Serbian legislation with the EU transport acquis communautaire. The project is consisted of three components: drafting laws and regulations, training of employees in the Ministry and implementation of information management systems. As a part of the first component, technical experts have been assisting the Ministry in preparation of new Draft Law on Railways and the new Draft Railway Safety and Interoperability Law. Value of the project is 1.5 million Euros with estimated duration of two years.

In January 2012, rail reform project financed by the EBRD loan in total value of 400.000 Euros, was completed. The main objective of the project was production of the five-year Business plan for Serbian Railways and drafting service level agreements for the provision of rail infrastructure. The project was done by the Austrian consultant Roland Berger.

Additionally, the technical assistance for reforming of JSC Serbian Railways was financed from IPA 2008, in total value of 500.000 Euros. Project started in February 2012 with estimated duration of one year.

- **Kosovo**

The EC funded project "Support in the Implementation of Transport Community Agreement" is in progress. International experts have been involved in the training programme and completion of regulations related to the normal functioning of the Railway Regulatory Authority. Additionally, rail experts from Kosovo visited the EU Member States in order to exchange best practices in the railway sector.

## **5. Identification of focal points in the rail reform process which need to be further addressed**

The main intention of this chapter is to identify areas in the reforming process where the additional assistance to the Regional Participants is needed. The proposals in this chapter have been elaborated through consultations with the RWWG group.

### *Regional Railway Priorities*

- Transparent and non-discriminatory access to rail terminal and terminal services, in particular in sea and inland ports, and challenges of (private) sidings

Access conditions and charging of the rail infrastructure in the inland and sea ports is still, in most countries, an unresolved issue. Access problems result from terminal operators not being independent from the dominant operator, which can use terminal control to discriminate against new entrants. Ensuring open and non-discriminatory access to terminal facilities and services in such terminals is essential in the open market in order to provide free movement of goods. Focus should be placed on the legal framework, the responsibilities of the rail regulator body and transparency of access conditions and charges in the form of network statements integrated with those of the rail infrastructure manager. The requirements as they may result from an extension of one or several EU rail freight corridors should also be assessed. Determination of cooperation models between terminal operators and long haul railway undertakings is the main issue to be addressed. The interface with customs has to be considered, bearing in mind that Croatia will soon apply the EU customs code.

Central corridors have been attracting the biggest interest, while start and end points as well as independent infrastructure are usually being neglected. Provision of access to the sidings presents a cornerstone to enhanced competitiveness of railways, as toward other transport mode as well as between different railway undertakings.

Potential problems such as direct access to sidings and last mile terminals can include restricted use, unfair prices (excessive prices for the connection of parking spaces built by the new entrants to signalling) or the lack of information on availability. Progress in the

region in resolving these issues has been limited and still not properly addressed. Coordination at regional level and application of the same standards have to be taken into account, considering that unilateral approaches will bring limited benefits.

- Concessioneering of rail infrastructure maintenance and management

Considering the current economic situation and aggravating circumstances, investments in the transport infrastructure have been decreasing. Due to this reason, alternative funding solutions have to be found in order to maintain network quality. Concessioneering of railway infrastructure presents viable solution in the several market situations such as:

- Avoidance of closure of infrastructure by the State owned infrastructure manager;
- Construction of network extensions which are of no interest to the incumbent infrastructure manager (and in the case of integrated incumbent railways, the incumbent railway undertaking has no competitive interest in serving the railway section);
- Operation of special facilities (stations, dry ports, logistics centers, depots and other maintenance facilities).

Currently there are no railway lines under concession in the Western Balkan. In summary, rail infrastructure concessions shall always be taken into consideration if the state-owned infrastructure manager wishes to separate himself from rail infrastructure assets. Particular attention should be paid to establishing legal framework and set up for railway concessions, where possibility of concessioneering and regulation should be further elaborated.

If appropriate models are implemented, concession can lead to increase in rail traffic volumes, improvements in transport market share, productivity increase in cargo transport, decrease in transport rates and service quality increase.

- Calculation of railway infrastructure track access charges with special accent on direct costs

Track infrastructure charges present the fee charged by infrastructure managers to railway undertakings for using the railway infrastructure. Level of charges for freight trains needs to be kept in line with current market situation and competitive with other transport modes. Track access charges, especially international, should be coordinated with charges in neighbouring countries to ensure undistorted international traffic across rail corridors.

Opening the rail market in a non-discriminatory manner is at risk without harmonisation of track access charges and network statements at regional level. Implementation of the harmonised charging system is especially preferred on lines with international traffic.

In order to be competitive with other transport modes and with other rail corridors in the vicinity, regionally aligned track access charges present a necessity if not on the whole SEETO Comprehensive Rail Network than at least at Corridors/Routes with highest international traffic.

- Performance scheme, framework contracts and authorised applicants

The main objective of performance regime is to reduce service disruptions to a minimum and to promote quality and reliability of rail transport. The performance regime is based on a monitoring and recording system whereby delays and performance affecting failures will be monitored and causation allocated to the relevant parties. The system should be

transparent and infrastructure managers should establish dispute settlement procedures for railway undertakings.

Users, in particular railway undertakings, need long predictability in the availability of the infrastructure, or otherwise they will not invest in new services, customer relationships and rolling stock. Best practice on framework contracts is needed, including standard contracts striking an efficient balance between access for many and long term capacity availability.

The use of forwarders and shippers in the sales channel for rail freight services, using the concept of authorised applicant should be promoted. Rail should follow road haulage, whereby the interface with the shipper is ensured by a forwarder who contracts haulage, transshipment and warehousing from different operators.

Introduction of performance based contracts would have positive effect on reliability of the rail transport and consequently would influence on increase in traffic volumes and better modal share for railways.

- Train driver licensing and certification, examiners and training facilities

The European legislation related to train driver education, licensing and certification intended to enhance competitiveness of railways and further support creation of the European Rail Area. Structural changes in the rail system and new technological developments related to cross border interoperability require appropriate professional competences related to the operation of trains and network as well as to the maintenance of rolling stock and infrastructure. The EU legislation on train driver licenses aims to alleviate cross border rail operations, create common standards for drivers across Europe and establish market oriented training facilities.

In the region, transposition of the EU train driver legislation is in the initial stage. Establishment of train driver centres, training curricula and procedures for obtaining the licences have not been tackled and their elaboration present pressing need to the Regional Participants. Requirements, training duration, training methods and curricula for the train drivers in the region should be unified and train driver certificates should be mutually recognised, where the SEETO can play an important role.

- Cross acceptance of rolling stock

Notified Bodies are competent bodies for assessing the compatibility of works or equipment with Technical Specifications for Interoperability (TSI) as a part of the wider EU system to support the interoperability of railway services within the European Union. Notified Bodies are appointed by the EU members to perform conformity assessment against relevant European Directives.

The Notified Body responsible for verification according to the EC rules assesses the design, production and final testing of the subsystem and issues EC certificate of verification to the applicant. The certificate must provide reference to the TSI according to which the conformity has been assessed.

Designated Bodies are bodies responsible for the verification procedure of determining conformity of the equipment or works with the National Rules. Designated Body is responsible for issuing the certificate of verification to the applicant. The Certificate of

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Verification contains reference to the national rules to which conformity has been examined, and (if existing) include parts which are derogating from the TSIs.

Currently limited progress in establishment of Notified Bodies and Designated Bodies is reported in the region and additional focus should be placed on institutional set up and practical application of verification procedures.

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Annex 1

**Review of railway legislation in the Regional Participants**

Albania

Railway Code of the Republic of Albania

Bosnia and Herzegovina

Law on Railways

Croatia

Railway Act

Railway Safety Act

Act on Division of the Public Company

Act on Rail Market Regulatory Agency

Railway Safety Agency Act

the former Yugoslav Republic of Macedonia

Law on Transformation of the Public Enterprise "Macedonian Railways" –UnLtd.  
Skopje

Law on the Railway System

Law on the Safety of the Railway System

Law on Contracts for Carriage by Railways

Law on Interoperability in the Railway System

Law on Transport of Dangerous Goods by Road and Rail

Decision on the Establishment of the Public Enterprise for Railway Infrastructure  
Macedonian Railways - Skopje

Decision on the Establishment of the Shareholding Company Macedonian Railways  
Transport JSC - Skopje

Decision for Verification of the Plan for Separation of the Capital, Assets, Rights,  
Obligations and Employees of PE "Macedonian Railways" C.O. Skopje

Montenegro

Law on Railways

Law on Safety in Railway Transport

Law on Contractual Relations in the Railway Transport

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## Railway Restructuring Strategy

### Serbia

Law on Railways

Law on Safety in Railway Transport

Law on Carriage Contracts in Railway Traffic

Decision on Changing of the Legal Form of the Public Enterprise „Serbian Railways“, Belgrade

Decision on Amendments to the Founding Act of the Public Enterprise “Serbian Railways”

Regulation on the Methodology for the Evaluation of Elements for Determining Fees for Utilisation of Railway Infrastructure, Organization and Regulation of Railway Transport

Regulation on the Requirements for Issuing and Content of Safety Certificates for the Transportation in Rail Transport

Regulation on the Conditions for Issuing and Content of Safety Certificates for the Railway Infrastructure Management Including Industrial Railway

Rulebook on the Requirements for Issuing and Content of Safety Certificates for the Transportation in Rail Transport

Rulebook on the Conditions for Issuing and Content of Safety Certificates for the Railway Infrastructure Management Including Industrial Railway

### Kosovo

Law on Railways

Law on Regulation of Railways