

*MINISTRY OF MARITIME, TRANSPORT AND  
COMMUNICATIONS*

***RAILWAY ACT***

Zagreb, July 2003

**RAILWAY ACT**

**I – GENERAL PROVISIONS**

**Article 1**

The Act hereto shall set out the organizational structure of the railway system, methods and conditions for operating railway transport, railway infrastructure status and requirement for the access to railway infrastructure, the railway transport services of a special state interest that the Republic of Croatia shall provide a part of the funds for, as well as the railway transport activities regulation system.

**Terminology**

**Article 2**

The particular expressions in terms of this Act shall construe as follows:

- **The railway transport operator license** shall be an administrative document granting the railway carrier an ability to carry out all or respective public transportation services in the railway transport field;
- **The license to manage the railway infrastructure** shall be an administrative paper granting the railway assets manager the right to manage railway assets;
- **The network report** shall be a thorough overview of available railway assets assigned to the railway carrier including general rules, deadlines, procedures and criteria regarding setting fees and criteria for the capacity distribution, as well as other information on requirements for access to the assets;
- **The infrastructure capacity** shall construe the total number of train tracks facilitated by the railway assets and used on the basis of the timetable;
- **The infrastructure belt** is the bordered area functionally serving for the use, maintenance, technological improvement and development of the assets capacities;
- **The public transport** shall construe the carriage of passenger or goods available to everyone under equal conditions, which the railway carrier shall operate on the basis of the concluded transport contract;
- **The combined transport** shall construe the carriage of goods during which a freight vehicle, trailer truck, tractor and/or semi trailer with or without hauling truck, replaceable platform or container the size of which is 20 ft or more uses the road for the first or final section of the journey and/or uses railway or internal navigable road or sea transport on other sections of the journey;
- **The network** shall construe entire railway assets owned and/or operated by the assets manager;

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- **An international group** shall construe any association consisted of no less than two railway carriers established in different states for the sake of operating services in international railway transport;
- **The international cargo transport** shall construe the carriage of the cargo during which the cargo shall cross at least one state border. The train carrying international cargo may be supplemented and/or detached during which respective parts of the train may have different starting points or destinations provided that all carriages crosses at least one state border;
- **The transport for own account** shall construe the carriage of persons and/or goods in railway transport for the needs of the assets manager or railway carrier;
- **The safety certificate** shall be an administrative document by which the railway carrier proves to meet all prescribed requirements for the safe conduct of the transport in individual railway track or railway network;
- **The railway infrastructure manager's safety certificate** shall construe an administrative document on meeting safety requirements of managing transport and maintenance of railway assets in line with the safety regulations in railway transport;
- **The infrastructure manager** shall construe a legal entity authorized to own and operate railway assets;
- **The timetable** shall construe a document of the assets manager which identifies all planned movements of trains and railway vehicles in respective infrastructure during the period the said is valid for;
- **The railway infrastructure** shall construe a public good in general use which may be used by concerned railway carriers under equal conditions;
- **The railway transport** shall construe an operation encompassing the carriage of passengers and goods and/or hauling trains;
- **The railway carrier** shall construe all local and foreign legal entities granted licenses for the public railway transport and the safety certificate issued by competent body;
- **The railway system** shall encompass the railway transport and railway assets.

## **Railway System Organization**

### **Article 3**

The railway system established in line with the Act hereto shall be established on the principle of distinction between the railway transport and railway infrastructure.

## ***II RAILWAY TRANSPORT SERVICES***

### ***Classification of Services***

#### ***Article 4***

- (1) The railway transport services shall represent the public transport services and the transport for own account.
- (2) The public transport services referred to in Paragraph 1 of Article hereto shall be provided in line with market conditions pursuant to the transport contract unless otherwise provided in the Act hereto.

### ***Railway Carrier***

#### ***Article 5***

- (1) The Railway carrier shall construe every local and/or foreign legal entity licensed to operate services of public transport and possessing the safety certificate.
- (2) An international group in terms of the Act hereto shall be also taken to mean the railway carrier.

### ***License to operate public transport services in railway transport***

#### ***Article 6***

- (1) The Ministry in charge of the railway transport (hereinafter: the Ministry) shall issue a procedural decision granting the right to operate public transport services (hereinafter" the license) on a request of a local legal entity.
- (2) In order to be issued the license referred to in Paragraph 1 of Article hereto the legal entity must meet the requirements as follows:
  1. to have its seat on the territory of the Republic of Croatia;
  2. to be registered for railway transport (with or without hauling trains or hauling trains only) for the services the license has been requested for;
  3. the bankruptcy procedure against it has not been initiated or is not ongoing;

4. a member of its management has not been sentenced to one or more years of imprisonment for a criminal act in business transactions, a criminal act against general safety of people and property and traffic safety, violation of the right to work and any other labour-related rights, customs survey evasion and evasion of customs duties and of payment of other fees pertaining to customs procedure in the event of the carrier requesting the license for international carriage of goods subject to the customs procedure;
5. to be financially competent which means that it may meet its current and future obligations under normal conditions within a specific deadline;
6. to employ professional staff which may ensure high degree of the transport safety;
7. to possess quality rolling stock and other appropriate technical equipment;
8. to be insured at an insurance company and competent to settle any potential liability- based indemnification, which may occur in the course of its operations and may offer guaranties for damage coverage in the event of an accident to the passengers, luggage, cargo, third persons and environment in accordance with law and other regulations and international treaties the Republic of Croatia is obliged with.

(3) Each legal entity, which meets the requirements referred to in Paragraph 2 of Article hereto, shall be issued the license to operate public transport it has applied for.

(4) The license referred to in Paragraph 1 of Article hereto shall not entitle the railway carrier to have access to the railway assets.

(5) The requirements the railway carrier referred to in Paragraph 2 of Article hereto has to meet shall be elaborated in more details in a regulation to be passed by the Minister in charge of railway transport (hereinafter: the Minister) with the approval of the Finance Minister. The Finance Minister shall give his/her approval to the requirements referred to in Paragraph 2 Items 5 and 8 of Article hereto.

#### *Article 7*

(1) The license shall be issued to the 5-year period, with a possibility of extension.

(2) Depending on the extent and amount of investment into transport vehicles and if economic effect of the investment cannot be achieved in the 5-year period the license may be issued to a period of more than 5 years but not exceeding 20-year period.

(3) In the event the license is extended in terms of Paragraph 1 of Article hereto the railway carrier must prove that it meets all the requirements set out in Article 6 Paragraph 2 of Act hereto.

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(4) The Ministry shall be obligated to pass information about all changes, which may affect the license validity, to all the countries with which the Republic of Croatia has concluded international treaties on the international recognition of license.

### *Article 8*

(1) The railway carrier must meet the requirements referred to in Article 6 Paragraph 2 of the Act hereto during the entire license validity period except in cases otherwise regulated by the Act hereto.

### *Article 9*

(1) If it is established that the railway carrier does not meet any requirement referred to in Article 6 Paragraph 2 Item 5 of the Act hereto, provided that the railway transport safety is not in jeopardy, the Ministry shall order the railway carrier to eliminate failures within the deadline, which may not exceed six months.

(2) The license shall be revoked permanently if:

1. the railway carrier ceases to meet any of the requirements referred to in Article 6 Paragraph 2, except the requirements referred to in Item 5;
2. it, in line with Paragraph 1 of Article hereto, does not eliminate failures with regard to financial competence within the deadline referred to in Paragraph 1 of Article hereto.

### *Article 10*

(1) The Ministry shall pass a procedural decision to revoke the license if the railway carrier does not commence the operations licensed for within six months of its issuance or it ceases to carry out activities for more than six months.

(2) In the event of Paragraph 1 of Article hereto a new license may be issued if the railway carrier files a new application and proves that it meets prescribed requirements.

(3) Exceptionally, on the request of the railway carrier, the Ministry may allow termination of operations for a period exceeding six months if new circumstances and specificity of public transport services operated by the railway carrier demand it.

### *Article 11*

(1) The railway carrier shall be obliged to report to the Ministry any status changes and any change of the facts or circumstances of importance for carrying out operations i.e. license issuance within 30 days.

(2) After receiving the application referred to in Paragraph 1 of Article hereto the Ministry shall make its decision depending on the extent of the change and whether there is a need to re-apply for a new license.

(3) If the Ministry has identified that the changes referred to in Paragraph 1 of Article hereto are of such importance as to demand the issuance of a new license the railway carrier may continue operating those transport services and to the extent permitted by previous license pending its issuance, except in the case that former license has been revoked because of endangering traffic safety.

(4) An administrative dispute may be launched against the procedural decision of the Ministry related to the issuance and revocation of the license.

### ***Recognition of foreign licenses***

#### ***Article 12***

(1) Licenses issued to railway carriers by relevant authorities of other states in accordance with the International Agreement on Mutual Recognition of Licenses shall be recognized on the territory of the Republic of Croatia.

(2) In the event of suspicion that a railway carrier holding a license by a relevant authority of another state fails to comply with the conditions for which the license was issued, the Ministry shall inform thereof without delay the relevant body of the other state which issued the license.

### ***Safety conditions***

#### ***Article 13***

(1) To carry out services of public transportation on the railway network of the Republic of Croatia, apart from the license referred to in Article 6 of this Act, the railway carrier must also meet the safety conditions required for safe transportation on a specific railway or railway network.

(2) Meeting the safety conditions shall require proof in the form of a safety certificate issued by the Ministry upon the railway carrier's request.

(3) The certificate referred to in paragraph 2 of this Article shall be issued to the period of five years with a possibility of extension upon the railway carrier's request.

(4) In order to be granted the safety certificate the railway carrier must meet the following requirements:

1. technical conditions and driving conditions specified for carrying out transportation services in railway transport,
2. staff employed to operate and escort trains used for transport must be appropriately skilled to apply safe railway traffic rules.
3. rolling stock to be used for transport on the railway networks of the Republic of Croatia must meet all the requirements stipulated by acts regulating safety in railway transport.

(5) If an inspection determines that the circumstances are such that the holder of the safety certificate fails to meet the conditions from paragraph 4 of this article, the Ministry shall issue a decision repealing the safety certificate.

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(6) If an inspection determines certain irregularities which do not have a major impact on the railway traffic safety, the relevant inspector and other authorized civil servant shall issue an order to eliminate them and specify a deadline within which the certificate holder has an obligation to comply.

(7) If the safety certificate holder fails to eliminate the found irregularities within the period specified for the elimination thereof, the Ministry shall issue a decision repealing the certificate.

(8) An administrative dispute is allowed against the safety certificate decision issued by the Ministry referred to in paragraphs 2 and 5 of this article.

(9) The conditions from paragraph 4 of this article shall be elaborated in detail in the form of a regulation issued by the Minister.

### *Article 14*

(1) The legal person undertaking transport for its own needs must have the safety certificate.

(2) Provisions of article 13 of this Act shall be applicable as appropriate to legal persons which undertake transport for their own needs.

## **III. RAILWAY INFRASTRUCTURE**

### *Railway Infrastructure Status*

#### *Article 15*

(1) Railway infrastructure shall be considered to be generally used public goods owned by the Republic of Croatia, which may be used by all interested railway carriers under equal conditions and in the manner as specified by this Act.

(2) Railway traffic shall be operated on the railway infrastructure under the conditions specified by the regulations which ensure railway traffic safety.

(3) For the purposes of this Act, railway infrastructure shall mean: railway understructure and superstructure, railway facilities, signalling-safety, telecommunications, electrical power and electricity generation and other plants and equipment on the railway, railway crossings, railway equipment, buildings used for regulation and organization of railway traffic and maintenance of the infrastructure, as well as the land on which the mentioned facilities and buildings are located.

(4) Detailed specification of constituent parts of the railway infrastructure from paragraph 3 of this article shall be determined by a regulation issued by the Minister.

### *Railway Infrastructure Management*

#### *Article 16*

(1) Managing railway infrastructure shall be an activity of public interest, including: organizing and regulating railway traffic, ensuring access and usage of railway infrastructure to all railway carriers meeting the conditions specified by this Act, organizing public transport and transport for own needs, maintenance and modernization of railway infrastructure, protection thereof and investing into railway infrastructure construction.

(2) The activity from paragraph 1 of this article shall be exercised by the Infrastructure Manager, which is a legal person designated by the railway infrastructure owner, unless this Act specifies differently.



***Article 17***

(1) In order to exercise the activity of managing railway infrastructure, the Railway Manager referred to in article 16, paragraph 2 of this Act, must have a license for managing railway infrastructure and a safety certificate for managing railway infrastructure.

(2) To be granted the license for managing railway infrastructure, the Infrastructure Manager must meet the conditions from article 6, paragraph 2, points 1, 3, 4 and 5 of this Act.

(3) To be granted a safety certificate for managing railway infrastructure, the Infrastructure Manager must meet the following conditions:

- relevant technical conditions and conditions for organizing and regulating railway traffic;
- railway infrastructure which the Manager manages must meet the conditions specified by the Act regulating safety in railway traffic and other regulations,
- staff the Manager employs must be skilled for organizing and regulating railway traffic and building, modernization and maintenance of railway infrastructure.

(4) Conditions from paragraph 3 of this article shall be elaborated in detail by a regulation issued by the Minister.

***Article 18***

(1) Rights and duties of the Infrastructure Manager and railway infrastructure owner shall be specified by a contract regulating mutual rights and obligations, which specify technical and other conditions for safe operation, organization and regulation of railway transport, maintenance funds, modernization and building railway infrastructure and fees for using railway infrastructure.

(2) Apart from the conditions for undertaking the activity of managing railway infrastructure from article 16, paragraph 1 of this Act, the Infrastructure Manager shall be responsible for distribution of infrastructure capacities, designation of fees for using infrastructure capacities, drafting and publishing timetables, reporting on the network, keeping the required records, data and documentation important for railway traffic safety and maintenance and usage of railway infrastructure and reporting and delivering relevant statistical information on business operations to a state authority relevant for statistical research and statistical records.

(3) The Infrastructure Manager shall be required to maintain separate accounting for the infrastructure area which he or she manages, which will enable separate accounts of all infrastructure expenditures, revenue from its usage and management and sources for its funding.

(4) With regard to the license for managing railway infrastructure and issuance of the safety certificate, provisions of this Act shall apply as appropriate in terms of regulating licenses for rendering services in public transportation and provisions guiding the safety certificate issued to a railway carrier.

***Railway Infrastructure Management  
in Extraordinary Circumstances***

***Article 19***

(1) For the purposes of this Act, extraordinary circumstances shall mean:

- large natural disasters
- extraordinary environment threat events

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- obstacles and hindrances in the functioning of the economy to a large extent

(2) In the event of extraordinary circumstances, the Government of the Republic of Croatia may specify measures which the Infrastructure Manager and railway carriers must take, aiming at securing traffic on railway infrastructure in the new circumstances.

### ***Railway Classification***

#### ***Article 20***

(1) For the purpose of specifying the manner of managing and using railway infrastructure and planning the development thereof, railway networks shall be classified as follows:

- railways of importance for international traffic
- railways of importance for regional traffic
- railways of importance for local traffic

(2) The decision on the classification of railways, for the purpose of paragraph 1 of this article, shall be issued by the Government of the Republic of Croatia upon a proposal of the Ministry.

### ***Tasks of using railways of local importance***

#### ***Article 21***

(1) Tasks of using railways of importance for local traffic, in the event of expressed interests, may be allocated to the units of local and regional self-governance.

(2) Decisions on the transfer of tasks from paragraph 1 of this article shall be made by the Government of the Republic of Croatia upon a proposal of the Ministry.

(3) Usage of railways of importance for local traffic in accordance with paragraph 1 of this article shall be subject as appropriate to the provisions of this Act which regulates services in railway transport and railway infrastructure.

### ***Access to Railway Infrastructure***

#### ***Article 22***

(1) The railway carrier holding a license and a safety certificate may carry out services of public transport on railway infrastructure under the condition that access thereto is approved.

(2) Access to railway infrastructure for railway carriers meeting the conditions stipulated under this Act shall be approved by the Infrastructure Manager.

(3) Carriers shall sign contracts with the Infrastructure Manager regulating their access to railway infrastructure. The contract on access to railway infrastructure must be non-discriminating and in accordance with the provisions of this Act.

(4) The contract on access to railway infrastructure from paragraph 3 of this article shall regulate mutual rights and obligations between railway carriers and the Infrastructure Manager, specify the designated capacity, amount of the fee for using railway infrastructure and other questions related to transport safety and environmental protection.

### ***Specifying Fees for Using Railway Infrastructure***

#### ***Article 23***

(1) The railway carrier shall pay a fee for using railway infrastructure. The amount of the fee shall be determined and collected by the Infrastructure Manager.

(2) The funds collected from the fees shall be the revenue of the Infrastructure Manager.

(3) Elements for specifying the amount of the fee for using railway infrastructure must be balanced in relation to infrastructure managers of the European Union states.

(4) The Infrastructure Manager may specify a common framework for determination of fees in the form of a contract signed with other infrastructure managers, respecting the independence of infrastructure management by the Manager.

(5) The amount of the fee for the use of infrastructure shall be determined based on the train's passed kilometers, composition of the train, weight and speed of the train, shaft pressure, duration of the infrastructure usage, and other specific requirements.

(6) In the identification of the fee for the use of infrastructure, the infrastructure manager shall be obliged to apply a fee calculation method that provides different railway carriers delivering the same kind of services, with the equal and non-discriminating fees.

### *Allocation of Infrastructure Capacities*

#### *Article 24*

(1) Railway carriers and their international groups (hereinafter: applicants) shall be entitled to submit an application for the allocation of infrastructure capacities.

(2) The infrastructure manager shall determine the requirements that applicants for the allocation of the infrastructure capacity must meet and that must be appropriate, precisely identified and non-discriminating.

(3) Requirements referred to in item 2 of this Article should ensure that the expected revenues from the use of infrastructure capacities are generated.

(4) Requirements referred to in item 2 of this Article shall be determined by the network report that the infrastructure manager submits as a part of the principles of infrastructure capacity allocation.

(5) The allocation of infrastructure capacities shall be performed by the infrastructure manager taking into account the kind and scope of transport, degree of the railway infrastructure utilization, financial and business abilities of carriers, additional services that the infrastructure manager provides in relation to the performance of transport within the infrastructure capacities, and activities of specific national interest in the public transport.

(6) An applicant cannot transfer the allocated infrastructure capacity to other carrier. Any trade of the infrastructure capacity shall not be allowed and shall have as a consequence the exclusion of the carrier from the further allocation of capacities.

(7) A right to use the infrastructure in the form of the train route shall be approved to applicants, on the principle once a year and for the duration of one train timetable.

(8) The infrastructure manager and an applicant can conclude a framework contract for the use of the capacity within the appropriate railways infrastructure for a period exceeding the duration of one train timetable provided that such a contract does not exclude in advance the use of the infrastructure in question by other applicants and for other services.

(9) The infrastructure manager can reach the mutual agreement with other infrastructure managers and determine the framework and procedure for the allocation of infrastructure capacities, but at the same time the infrastructure manager shall maintain its independent infrastructure management.

- (10) As for the allocation of infrastructure capacities to more than one network, the infrastructure manager shall be obliged to cooperate with infrastructure managers of other countries in order to ensure the efficient establishment and allocation of infrastructure capacities and organize international railway routes for trains.
- (11) Applicants may submit an application for the allocation of the infrastructure capacity within the limits of only one railway network.
- (12) The application referred to in item 11 of this Article shall be submitted to one of infrastructure managers, who is authorized on behalf of the applicant to request capacities from other infrastructure managers to whom the application refers.

***Procedure for the Harmonization of Infrastructure Capacity Allocation***

***Article 25***

- (1) Upon the allocation of infrastructure capacities, the infrastructure manager shall be obliged to meet, if possible, all requests for the infrastructure capacity, including the railway routes within the limits of only one network.
- (2) In the case of the infrastructure overload (blockage), the infrastructure manager may in the procedure for the capacities allocation and harmonization of train timetables determine priorities based on the analysis of capacities and consideration of the importance of a certain service.
- (3) The infrastructure manager shall be obliged to introduce all interested railway carriers with a proposal of the train timetable and to ask for their opinion in writing. A deadline for submitting their opinions on the proposed train timetable shall not be longer than a month from the day of delivery.  
During the harmonization of the proposal with the requests of the interested railway carriers, the infrastructure manager shall be entitled to propose other infrastructure capacity different from the requested one.
- (4) In the case of the special requests by railway carriers for the capacity allocation at the time of the train timetable duration (ad hoc), the infrastructure manager may meet such requests provided that it possesses sufficient capacity.

***Network Report***

***Article 26***

- (1) The infrastructure manager shall make and publish the network report, which the interested parties may get after the payment of a certain fee.
- (2) The fee referred to in item 1 of this Article shall not be higher than the costs of publication.
- (3) The compulsory contents of every network report shall encompass the overview of the infrastructure available to the railway carriers, information on the requirements for access to the railway infrastructure in question and allocation of the capacity, and principles of identifying fees for the infrastructure usage.
- (4) The network report must be regularly updated, and if necessary, it can be changed.
- (5) The network report shall be published not later than four months prior to the expiry of the final deadline for the submission of applications for the infrastructure capacity allocation.

***Regulatory Body***

***Article 27***

- (1) In order to ensure the easy-to-survey and impartial operating of the railway transport activities, which are carried out as public transport services, a specific

act will establish a regulatory body in accordance with the principles defined in this Act and the act on its establishment.

- (2) The regulatory body should ensure an open and non-discriminating behavior between the infrastructure manager and railway carriers, and with regard to its organization, financing and decision making, it must be independent from any infrastructure manager and railway carrier.
- (3) A railway carrier may complain to the regulatory body if it believes that it is not treated equally as other applicants for the infrastructure capacity allocation or that in any other way suffers a damage with regard to:
  - The network report;
  - the conduct of the infrastructure allocation and results of such conduct;
  - the criteria imposing fees for the infrastructure usage;
  - the amount and structure of fees for the infrastructure usage;
  - other cases related to providing the access to and use of railway infrastructureThe regulatory body shall be obliged to take care about fees determined by the infrastructure manager in order to ensure that they are mutually harmonized and non-discriminating.

Negotiations on the fee amount between the complainant and the infrastructure manager shall be allowed only under the supervision of the regulatory body.

#### ***Article 28***

- (1) The regulatory body shall carry out activities stated in Article 27 of this Act, as public powers.
- (2) By a procedural decision, the regulatory body may order the undertaking of necessary measures for the removal of the identified irregularities.
- (3) In the procedure of resolving a complaint, the regulatory body shall be authorized to request all necessary data and information from the infrastructure manager, the complainant and third interested parties.
- (4) Individual acts that the regulatory body passes in the exercise of public authorities shall be final, and the administrative lawsuit may be filed against them.

#### ***Railway Infrastructure Construction, Modernization and Maintenance Planning***

##### ***Article 29***

- (1) The National Program of the Railway Infrastructure (hereinafter: National Program) shall determine plans for the construction of the new railways, the modernization and maintenance of the existing railway infrastructure.
- (2) Upon the proposal of the Government of the Republic of Croatia, the Croatian National Assembly shall pass the National Program for five year period.
- (3) The National Program shall determine the most important tasks in the construction, modernization and maintenance of the railway infrastructure, their scope, realization dynamics and priorities, and the amount and sources of financial resources needed for the performance of the tasks.
- (4) After the expiry of the National Program duration period, the Government of the Republic of Croatia shall submit the overall report on the National Program implementation to the Croatian National Assembly.
- (5) Based on the adopted National Program, the infrastructure manager shall, with the consent of the Minister, make the Annual Plan for the construction, modernization and maintenance of the railway infrastructure, whose drafting timeline must be harmonized with the deadlines for the drafting and adoption of the State Budget of the Republic of Croatia.

- (6) Based on the infrastructure manager's report, the Ministry shall report to the Government of the Republic of Croatia on the implementation of the Annual Plan.

***Works on the Modernization and Maintenance within  
the Railway Infrastructure Belt***

***Article 30***

- (1) Provisions of the act that regulate the construction of buildings shall apply to the construction of the new and the modernization and maintenance of the existing railways.
- (2) Works on the modernization and maintenance of the existing railway infrastructure, which are considered as reconstruction according to the law that regulates the construction of buildings, shall be regulated by a specific regulation if they are being performed in the infrastructure belt.
- (3) The Minister, with consent of the minister competent for the administrative affairs of the construction, shall pass the regulation referred to in item 2 of this Article.

***Railway Infrastructure Financing***

***Article 31***

- (1) Sources for financing the railway infrastructure are:
1. The funds raised from the collection of fees for the infrastructure usage;
  2. The funds raised from the sale of oil derivatives with a price of 0,60 HRK per liter for the maintenance of the railway infrastructure.
  3. The funds from the state budget for the modernization and construction of the railway infrastructure;
  4. The funds from the state budget, budget funds of the local and regional self-rule for financing services of a special national interest in the public railway transport;
  5. The funds from investments by the local and foreign legal entities;
  6. The funds from the part of concession fees;
  7. The funds from other sources.
- (2) The purpose of funds and method of their usage shall be regulated by the contract referred to in Article 19, item 1 of this Act.

***Article 32***

- (1) The funds for financing the railway infrastructure referred to in Article 31, item 1, line 2 of this Act shall be paid by producers and importers of oil derivatives and a competent body of the state administration for commodity reserves related to:
1. Motor petrol (MP-98, LFMP-95 and LFMP-98) as well as other kinds of lead and lead-free petrol regardless of an octane value and a commercial name;
  2. Diesel fuel (DF and DF – euro), as well as other kinds of diesel fuels regardless of a cetane value and a commercial name.
- (2) The fee under paragraph 1 of this Article shall not be paid on Eurodiesel fuel coloured in blue, extra light and light special (EL, LS) heating fuel, all types of heating fuel, propellants and aviation gasoline, liquefied natural gas (LNG) and all types of paraffin oil.

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(3) Where oil derivatives are imported in one's own name and for someone else's account the beneficiary of such import shall pay the fee.

(4) The fee under paragraph 1 of this Article shall be paid per litre of delivered and imported oil derivatives in the amount of 0,60 Kn into the account of HZ – railway assets as of 1 January 2004.

(5) As regards the emergence of the obligation to calculate the fee, timelines for payment, exemption from payment and right to return of the fee, keeping records, they shall be subject to application of provisions of the Act on Special Tax on Oil Derivatives and the provisions of the General Taxation Act shall apply to collection of the fee, appeal procedure, offences and statute of limitation. Supervision over calculation and payment shall be carried out by the Tax Administration of the Ministry of Finances.

### *Concession for construction of new railway assets and management of existing ones*

#### *Article 33*

1. A concession shall imply acquisition of rights as follows:

1. to construct new railway assets
2. to manage a section of existing railway assets in terms of Article 16, paragraph 1, of this Act.

(2) Concession for management of a part of the existing railway assets shall be allocated at the proposal of the Ministry when such concession is economically justified.

(3) Any domestic and foreign legal person shall be entitled to allocation of the concession under paragraph 1 of this Article under the condition that it meets requirements for allocation of the concession, in terms of business reputation, capacities to realise the concession, environmental effects and favourable offer concerning technical and financial terms.

(4) For allocation of the concessions under paragraphs 1 and 2 of this Article, the bidder must have licences for management of railway assets and safety certificate.

(5) The Government of the Republic Croatia shall pass a decision to grant the concession under paragraph 1 of this Article (hereinafter: the concession).

(6) The concession shall be granted on the basis of conducted public tender procedure. The concessionaire shall pass a decision on public tender procedure.

#### *Article 34*

(1) The concession for construction of new railway assets shall be granted for the period of 50 years and for management over a section of the existing railway assets for the period of 20 years.

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(2) The scope and amount of investments shall be taken into account in determination of the period for which the concession shall be granted, so that economic effects of the concession can be realised before the period of the concession expires.

(3) A decision on the concession shall in particular include: list of structures and facilities of railway assets for the construction of which the concession shall be granted and/or information on the railway assets which shall be given to management, fee that shall be paid for the concession, terms and duration of the concession, all rights and obligations of the concessionaire and entity that was granted the concession.

(4) On the basis of the decision on concession, the Minister and the entity, which was granted the concession, shall conclude an agreement on concession.

The agreement on concession, in accordance with the decision on concession, shall regulate in more specific terms the purpose for which the concession was granted, requirements which the entity granted the concession must meet during its effectiveness, amount of the fee for the concession and the way of its payment, guarantee of the entity which was granted the concession and other rights and obligations of the concessionaire and entity that was granted the concession.

The conclusion of the agreement on concession shall render effective the rights and obligations pertaining to the concession.

(5) The fee payable for the concession shall consist of a permanent and variable part. The fee shall constitute revenue of the state budget.

### *Article 35*

(1) The concession may be withdrawn in cases as follows:

1. Where the entity granted the concession has failed to construct within determined period of time structures and other facilities for which the concession was granted;
2. Where the entity granted the concession has failed to comply with the provisions of the Act and regulations for its implementation or to implement the terms of the concession;
3. Where the entity granted the concession has failed to use the concession or has used it for purposes other than granted and beyond limits determined in the agreement on concession;
4. Where the entity granted the concession has taken actions without authorisation which were not foreseen in the agreement on concession or which are contrary to the authorised project;
5. Where the entity granted the concession has irregularly paid the due fee.

(2) In cases under paragraph 1 of this Article, the entity, which was granted the concession, shall be invited to provide its position within certain time as to reasons for the intended withdrawal of the concession.

(3) If the agreement on concession has been cancelled in the case of withdrawal of the concession for the reasons stated under paragraph 1 of this Article, the entity that



was granted the concession shall not be entitled to any compensation based on such cancellation.

- (4) The concessionaire shall decide on withdrawal of the concession.

***Article 36***

- (1) The concession shall cease to be effective as follows:
1. When the period for which the concession was granted has expired;
  2. When the entity which was granted the concession has abandoned it before the period determined in the decision on concession has expired;
  3. When a person which was granted the concession has died and/or such legal entity has ceased to exist unless his/its successors have claimed the verification of the concession in a timely manner;
  4. By withdrawal of the concession by the concessionaire;
  5. By cancellation of the agreement consented by both parties.
- (2) The concessionaire shall decide on the cessation of the concession.

***Article 37***

The Government of the Republic Croatia shall prescribe more detailed conditions to grant concession, procedure and criteria for determination of the fee.

***Termination of the status of railway assets  
as public good in general use***

***Article 38***

- (1) The status as public good in general use of railway assets may be terminated for a part of railway assets for which no public interest and no interest of users of public transport exists or on which the public transport was terminated.
- (2) The Croatian National Assembly at the proposal of the Government of the Republic Croatia shall pass a decision on permanent termination of public transport and termination of the status of railway assets as public good in general use under paragraph 1 of this Article.
- (3) The Government of the Republic Croatia may transfer the ownership over the part of the railway assets whose status as public good in general use was terminated in terms of paragraphs 1 and 2 of this Article to another user, legal and physical entity, or it may authorise the Manager of the assets to take legal actions related to its future status and purpose under the conditions set out by the decision under paragraph 2 of this Article.

***Services of special national interest***

***Article 39***

- (1) Services of special national interest in the public railway transport shall be considered to be as follows:

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- Services of railway passenger transport in domestic traffic (regional, local, commuter and city traffic),
  - Services of railway passenger transport in international traffic,
  - Services of combined transport.
- (2) With the view to assert special public interests, to perform transport at tracks where revenues raised by transportation cannot cover its expenses, and to insure equal position of railway carriers and other carriers, the Government of the Republic Croatia or units of local and regional self-government may support individual railway carriers that render services of railway transport of special national interest at their request through allocation of some funds intended for development and reimbursing a part of transport expenses.
- (3) Railway carriers which render services under paragraph 1 of this Article, under the condition that they are registered for such business activity in the Republic Croatia and that they can reasonably demonstrate that they meet requirements for reimbursement for expenses.
- (4) The Ministry shall decide as to the legitimacy of the request for reimbursement of expenses to railway carriers which shall be paid from the state Budget taking into account the following criteria:
- existence of special national interest,
  - availability of other forms of transport,
  - difference between revenues that can be raised by the railway carrier at the market and actual transport expenses,
  - orientation of development of transport resources towards the long-term development plan of railway transport in the Republic Croatia with an emphasis on implementation of the national program for development of public railway assets,
  - effects of the investments to safety of railway traffic and capacity of carriers in terms of quality and quantity.
- (5) Mutual rights and obligations arising from the procedure for allocation of reimbursement for funds from the state budget shall be regulated by a contract between railway carriers who have been granted the reimbursement and the Ministry.
- (6) Reimbursement of part of expenses that shall be met from funds of units of local and regional self-government shall be regulated by a contract between the carriers and these units.
- (7) Every railway carrier who was approved such reimbursement under the provisions of paragraphs 1 to 6 of this Article shall be obliged to keep special accounting records on rendered services of special national interest for which it obtained the reimbursement.

### **Securing funds for reimbursement** *Article 40*

Funds for reimbursement of part of expenses to railway carriers under Article 39 of this Act shall be secured in the State Budget and/or budgets of units of local and regional self-government.

#### **IV. ADMINISTRATIVE PROCEEDINGS AND INSPECTIONS**

##### *Article 41*

- (1) Unless specified differently by this Act, administrative proceedings conducted in accordance with the provisions of this Act shall be carried out under the provisions guiding the general administrative procedure.
- (2) Inspection over the implementation of this Act shall be carried out by railway traffic safety inspectors and other officials authorized for inspection in accordance with the provisions of this Act and the acts regulating railway traffic safety.

#### **V. TRANSITIONAL AND FINAL PROVISIONS**

##### *Article 42*

- (1) Before the application of this Act, a special act shall regulate the separation of the company HZ – Hrvatske željeznice (Croatian Railways) d.o.o. into several companies, according to the areas of operation and determine their legal status.
- (2) The Act from paragraph 1 of this article shall regulate the issue of funding railway infrastructure from article 32 of this Act.
- (3) As of the day of application of this Act, the Republic of Croatia will take over all credit obligations agreed by the HZ – Hrvatske željeznice d.o.o. by that date with local and foreign creditors.
- (4) The act establishing a regulatory body from article 27, paragraph 1 of this Act shall be adopted before the Republic of Croatia becomes a full member of the European Union at the latest.
- (5) Before the adoption of the Act from paragraph 4 of this article, the duties of the regulatory body shall be exercised by the Ministry.
- (6) The HZ – Hrvatske željeznice d.o.o., which exercises transport services in railway traffic and manages the railway infrastructure in the Republic of Croatia in the course of the period before the application of this Act shall be regarded as meeting the conditions from article 5, paragraph 1 and article 17, paragraph 1 of this Act.
- (7) Before the Republic of Croatia becomes a full member of the European Union, legal persons from article 5 of this Act shall be entitled to found railway carriers, but only for traffic on local railways.
- (8) All existing contracts related to leases, rents or sales of some parts of the public railway infrastructure, concluded by HZ – Hrvatske željeznice d.o.o. before the

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entering into force of this Act, shall be valid after the entering into force of the Act, provided that, notwithstanding the provisions of existing contracts, free access to railway infrastructure is ensured, on which the lessee or buyer may conclude special annexes to the contracts if required.

- (9) Real property which is a part of the railway infrastructure and which is not registered in land books as public good in general use by the railway infrastructure shall be recorded as such in the land books.

### *Article 43*

- (1) The Croatian Parliament shall adopt the National Program from article 29, paragraph 2 of this Act within one year from entering into force of this Act.
- (2) The Government of the Republic of Croatia and the Minister shall adopt the regulations for the adoption of which they are authorized by this Act before the beginning of application of this Act.
- (3) The Croatian Railways Act (Official Gazette No 53/94, 139/97 and 162/98) shall cease to apply as of the date of entering into force of this Act.

### *Article 44*

This Act shall enter into force on the eighth day from the day of its publication in the Official Gazette and shall be applicable as of 1 January 2005, except the provisions of Article 32 of this Act which shall be applicable as of 1 January 2004.