

# LAW ON RAILWAYS

(Revised version)

## I. GENERAL PROVISIONS

### Article 1

This Law shall regulate the organization of the railway system, the manner and terms of railway transport, the railway infrastructure status, the management, construction, reconstruction, repair, maintenance and protection of the railway infrastructure, the access thereto, the funding and terms of provision of services of public interest.

### Article 2

Certain terms used in this Law shall have the following meaning:

- 1) “**Network statement**” shall mean a detailed description of the available railway infrastructure to be used by railway carriers including general rules, deadlines, procedures and criteria regarding the definition of the compensation for utilisation of the railway infrastructure, criteria relating to the allocation of the railway capacities, as well as other information on the terms of access to the railway infrastructure;
- 2) “**Towing vehicle**” shall mean a railway vehicle with its own engine (diesel locomotives, electric locomotives, steam locomotives, motor cars and motor vehicles for special purposes);
- 3) “**Towed vehicle**” shall mean a railway vehicle designed for transportation of passengers, luggage or goods (passenger cars, freight cars and trailers);
- 4) “**Train**” shall mean a adequately composed and hooked row of railway passenger and freight cars with one or more towing vehicles with own engine, only a towing vehicle with own engine and only motor cars;
- 5) “**Railway air space**” shall mean the space above the railway area on a 12 i.e. 14 meters height with a long-distance power line of voltage higher than 220 KV passing through, with regard to the upper rim of the track;
- 6) “**Railway timetable**” shall mean an act adopted by the railway infrastructure manager regulating the planned traffic of trains designed for public passenger and freight transport, as well as transport for own needs of the railway infrastructure;
- 7) “Transport **permit**” shall mean a document issued by a competent authority, laying down the legal person’s status of public railway carrier entitled to conduct all types or separate types of transport;
- 8) “**Railway infrastructure management permit**” shall mean a public document issued by a competent authority, confirming that the legal person fulfils the prescribed

conditions on management with the railway infrastructure;

9) “**Railway system**” shall mean a system composed of railway transport and railway infrastructure;

10) “**Railway transport**” shall mean an activity which comprises passenger and freight transport and/or train towing;

- 11) **“Railway infrastructure”** shall mean a unique technical and technological system of railways with upper and lower line, railway facilities, railway stations, facilities of trains electric traction, signalling-safety systems, telecommunication and information systems in railway transport, buildings, depots and other construction works on railway stations that contribute to the organisation, regulation of the railway transport and maintenance of the infrastructure, the land that functionally belongs to the railway, the official sections and facilities;
- 12) **“Railway line ”** shall mean a land rail line for passenger and freight transport by rolling stock;
- 13) **“Railway station”** shall mean an official section on the railway line from which the traffic of opposite and consequent trains is regulated, in which passengers enter and exit, and freight is loaded and unloaded;
- 14) **“Railway line area”** shall mean a land area on both sides on and below the railway body determined with an investment-technical and expropriation documentation, being 1 meter wide on both sides from the lower rim of the railway land body;
- 15) **“Railway network”** shall mean the overall railway infrastructure managed by the infrastructure manager;
- 16) **“Rolling stock”** shall mean a vehicle designed for moving by rail (locomotive, motor car, passenger and freight cars, as well as railway vehicles for specific purposes);
- 17) **“Protected area of the railway”** shall mean an imagined land area on both sides of the railway, 200 meters wide on each side, with regard to the endings of the railway line area;
- 18) **“Infrastructure capacity”** shall mean the total of train lines enabled by the railway infrastructure, used on the basis of the timetable;
- 19) **“Industrial railway”** shall mean a railway by which the legal person in the area of traffic, industry, mining, forestry and other economy areas carries passengers and freight for his own needs;
- 20) **“Industrial gauge”** shall mean a railway gauge that connects to the railway infrastructure and is used for supplying and shipping freight for the owner, i.e. the right - holder to use that gauge;
- 21) **“Public transport”** shall mean a passengers and/or freight transport available to anyone under equal conditions, which is conducted on the basis of an agreement between the carrier and the service user;
- 22) **“Vehicle weight on length meter”** shall mean the weight of an empty or loaded rolling stock, divided by the length of the rolling stock in meters, measured from the front up to the front of the uncompressed fender (fender devices), i.e. automatic junctions

expressed in KN on length meter;

- 23) **“Manipulation railway line”** shall mean a part of the railway infrastructure that serves for freight transport on demand and without an established timetable;

- 24) **“International grouping”** shall mean an association of at least two railway enterprises established in minimum two states with a view to providing international railway services;
- 25) **“Accident”** shall mean unwanted or unintended or sudden event or series of such events that have harmful consequences. Accidents are divided into the following categories: collision, derailment, accidents on road crossings, accidents to persons caused by a railway vehicle in motion, fires, etc;
- 26) **“Axel load”** shall mean the weight of an empty or loaded railway vehicle expressed in KN divided by the number of axels of the vehicle;
- 27) **“Maintenance of railway infrastructure”** shall mean the set of all actions of the current and investment repair of the railway infrastructure;
- 28) **“Railway carrier”** shall be a domestic and foreign legal person whose main activity is providing passenger and/or goods transport services by railway and which possesses a permit for public transport and a safety certificate;
- 29) **“Transport for personal needs”** shall mean transport of passengers and/or goods in railway transport for the needs of the infrastructure manager or for the needs of the railway carrier;
- 30) **“Road crossing”** shall mean a point where the railway crosses a road on the same level;
- 31) **“Reconstruction of railway, facility on a railway, installation and devices of a railway vehicle”** shall mean a renovation by which its basic construction and technical characteristics are changed;
- 32) **“Renovation of railway”** shall be a complete replacement of the upper line of the rail (tracks, gauge kit, ties, shunts, silt and supplement to the curtain), rebuilding of the lower line and lower line elements of the existing railways;
- 33) **“Safety certificate”** shall mean a public document confirming that a certain legal person (railway carrier) fulfils the prescribed conditions for safe railway transport;
- 34) **“Safety certificate for railway infrastructure management ”** shall mean a public document issued by a competent authority, defining that a certain legal person fulfils the prescribed safety conditions for railway infrastructure management;
- 35) **“Official section on a railway line”** shall be a section from where the railway traffic is regulated (railway stations, intersection, freight forwarding, loading intersections, sections for switching from two-gauge rail to one-gauge rail and platforms);
- 36) **“Route”** shall mean a plan of movement of rolling stock between two end points, in a certain time and under precisely determined technical and technological railway infrastructure terms;
- 37) **“Infrastructure manager”** shall mean a public or other legal person authorised to manage and maintain the railway infrastructure;
- 38) **“Inland public transport”** shall mean transport performed on the territory of the Republic of Macedonia;

- 39) **“International public transport”** shall mean transport performed on the territory of several states;
- 40) **“Combined transport”** shall mean transport including at least two transport types with a view to providing complete transport service (“door-to-door”).

## **II. ORGANISATION OF THE RAILWAY SYSTEM**

### **Article 3**

- (1) The railway system in the Republic of Macedonia specified by this Law is based on the principle of separation of the railway transport from the railway infrastructure.
- (2) The railway infrastructure as a benefit of general interest to the state shall be owned by the Republic of Macedonia and no property rights may be acquired on the basis thereon.
- (3) The management, construction, reconstruction, renovation, maintenance, protection of the railway infrastructure, the organisation and regulation of the railway traffic and the management of the operation and safety systems, as activities of public interest are performed by the public railway infrastructure enterprise or by another legal person in a manner and under the terms specified by this Law hereinafter referred to as: infrastructure manager.

## **III. RAILWAY TRANSPORT**

### **Article 4**

- (1) The railway transport of passengers and goods may be performed as public transport and transport for personal needs well as transport for own needs.
- (2) The public railway transport may be international or inland transport and it operates under the market conditions and combined transport of goods and on the basis of a transport agreement, unless otherwise determined by this Law.
- (3) The public railway passenger transport shall be performed as of the following types:
  - city transport - for the city area,
  - suburban transport - for the wider area around the city,
  - regional transport - for an area covering several municipalities,
  - international transport - comprising several states.

### **Article 4a**

- (1) Combined transport of goods shall mean transport of goods in containers with a minimum width of 6 metres, commercial vehicles, commercial vehicles with trailers, vehicles with semi-trailer with or without towing vehicle or swap transport container by railway and by which the delivery of goods of inter-modal transport units where the loading or unloading to the nearest cargo centre-goods

transport centre or RO-RO port is performed via road transport.

- (2) The manner of performance of the combined transport, the destination of the combined transport, the documents which the carrier should possess shall be regulated by another law.

### **Article 5**

- (1) Every domestic and foreign legal person having a public transport permit and a safety certificate shall be considered to be a railway carrier (hereinafter referred to as: carrier )
- (2) An international grouping shall also be regarded as a carrier within the meaning of this Law.
- (3) The carrier performing railway transport shall be bound to comply with the agreements applicable to the international railway transport, to which the Republic of Macedonia has acceded, as well as the relevant provisions of the customs and tax regulations.

### **1. Public transport permit**

#### **Article 6**

- (1) The public transport of passengers and freight shall be performed on the basis of a public transport permit.
- (2) Public transport permit (hereinafter referred to as “permit”) shall be issued by the Ministry of Transport and Communications upon a written request from the domestic legal person. The Ministry of Transport and Communications shall keep a register of the issued permits.
- (3) In order to obtain the permit referred to in paragraph 1 of this Article, the legal person shall fulfil the following conditions:
  1. The legal person shall have his seat within the territory of the Republic of Macedonia;
  2. It shall be registered for performance of the railway transport activity ( with or without train towing, or only for train towing);
  3. No bankruptcy procedure is initiated against it;
  4. The responsible person or the management body member of the legal person shall not be convicted and regarding a criminal act relating to the public finances, turnover operations and the economy, a criminal act against the general safety of persons and property, criminal acts against the public relations, avoiding customs supervision and failure to pay customs and other duties which are to be paid in a customs procedure, provided that the carrier seeks permit for international transport of freight liable to customs procedure, until the consequences of the sentence, or the fine or a misdemeanour sanction for a period of one or several years;
  5. To be financially capable, i.e. he shall be able to fulfil his current and future liabilities under normal course of work within 12 months, which is to be proved by submitting a



document for the economic and financial capability issued by the Central Register of the Republic of Macedonia;

6. To have employed professional staff which can ensure high level of transport security with minimum two employees per train;
  7. To have a quality fleet and other adequate technical equipment prescribed standards at his disposal;
  8. To be insured in an insurance company and to submit a written evidence of the ability to compensate for a possible damage resulting from the responsibility of the performance of his activity, to be able to guarantee indemnity regarding the passengers, luggage, freight, postal consignments, third parties and the environment in the event of an accident, in accordance with the law and other regulations, as well as international agreements which are obligatory for the Republic of Macedonia.
- (4) A permit shall be issued to every legal person who had submitted a request and who fulfils the conditions referred to in paragraph 3. A fee shall be paid for issuing of the permit.
  - (5) The permit referred to in paragraph 1 of this Article shall not be a sufficient condition for the carrier to be entitled to have an access to the railway infrastructure.
  - (6) The carrier shall at any time fulfil the conditions referred to in paragraph 3 of this Article, except for the cases referred to in Article 8 paragraph 1 and Article 10 paragraph 3 of this Law.
  - (7) The manner on issuing and revoking of the permit, the form and the content of the permit form, the form, the content and the manner of keeping the register of issued and revoked permits, as well as the level of the charge for issuing the permit are prescribed by the Minister for Transport and Communications.

#### **Article 7**

- (1) The permit shall have a validity period of five years with a possibility for extension of the validity for a maximum of twenty years.
- (2) In the event of extension of the validity of the permit pursuant to paragraph 1 of this Article, the carrier shall prove that he persists in fulfilling the conditions referred to in Article 6, paragraph 3 of this Law.
- (3) The Ministry of Transport and Communications shall be bound to inform in writing all the states which have concluded an international agreement on mutual recognition of permits with the Republic of Macedonia on the changes relating to the validity of the permit.

#### **Article 8**

- (1) Should it be established that the carrier does not fulfil the conditions referred to in Article 6 paragraph 3, item 5 of this Law, provided that the safety of the railway transport is not endangered, the Ministry of Transport and Communications shall adopt a decision may order the

carrier to eliminate the established deficiencies within a period that may not be longer than 6 months since the date when the decision was received.

(2) The permit shall be revoked permanently if:

1. The carrier shall cease to fulfil of either of the conditions referred to in Article 6 paragraph 3, except for the condition of Article 6 paragraph 3, item 5 of this Law;
2. The carrier shall not eliminate the deficiencies regarding the financial ability pursuant to paragraph 1 of this Article within the period referred to in paragraph 1 of this Article.

#### **Article 9**

- (1) If the carrier does not start to perform the activity for which he received a permit within 6 months since the day of the issuing of the permit, or commenced, but has ceased in performing the activity for a period longer than 6 months, the Ministry of Transport and Communications shall revoke his permit by a decision.
- (2) By way of derogation from paragraph 1 of this Article, upon a written request of the carrier, the Ministry of Transport and Communications may approve an interruption of the activity for a period longer than 6 months, if it becomes inevitable considering the circumstances and specifics of the transport performed by the carrier.
- (3) If the carrier, whose permit had been revoked pursuant to paragraph 1 of this Article, submits a new request and proves that he fulfils the prescribed conditions, he may obtain a new permit.

#### **Article 10**

- (1) The carrier shall be bound within a period of 30 days to submit to the Ministry of Transport and Communications the status changes, as well as any alteration of the facts and circumstances significant for the performance of the activity, i.e. for issuing of the permit.
- (2) Upon receipt of the request referred to in paragraph 1 of this Article, depending on the volume and the significance of the occurred alterations, the Ministry of Transport and Communications shall decide whether the carrier should submit a new request so that a new permit may be issued to him.

- (3) Should the Ministry of Transport and Communications establish that the alterations referred to in paragraph 1 of this Article are so significant that they require a new permit to be issued, the carrier may continue to provide the transport services in accordance with the issued permit, except for cases of revoking a previously issued permit due to endangerment of the traffic safety.
- (4) A complaint may be lodged against the decision of the Ministry of Transport and Communications regarding the issue or revoking of a permit with the Commission deciding in an administrative procedure in the second instance in the area of the transport and communications and environment within the Government of the Republic of Macedonia within 15 days upon the receipt of the decision.

### **Article 11**

- (1) Permits issued to carriers by competent authorities of other states shall be recognised on the territory of the Republic of Macedonia in accordance with the international agreements on mutual recognition of permits.
- (2) In the event of suspicion that the carrier, having a permit issued by a competent authority of another state, does not fulfil the conditions for performance of the activity for which he obtained the permit, the Ministry of Transport and Communications shall immediately notify the competent authority of the other state which issued the permit.

## **2. Security conditions**

### **Article 12**

- (1) In order to perform transport on the lines of the railway network of the Republic of Macedonia, despite the permit referred to in Article 6 of this Law, the carrier (domestic or foreign) shall comply with the security conditions, due to secure performance of the railway traffic on certain railway lines or the railway network.
- (2) The compliance with the security conditions of the domestic and foreign carrier shall be proven by presenting a safety certificate issued by the Ministry of Transport and Communications, upon request of the carrier. The Ministry of Transport and Communications shall keep a register of the issued certificates.
- (3) The certificate referred to in paragraph 2 of this Article shall be issued for a period of 2 years and shall be renewed every two years, in accordance with the conditions referred to in paragraph 4 of this Article.
- (4) In order to obtain a safety certificate, the carrier shall fulfil the following conditions:
  1. the technical conditions and the traffic conditions prescribed for provision of services in the  
railway transport;
  2. the staff responsible for organisation, management and/or monitoring of the trains shall have adequate professional training, so as to apply the traffic rules for safe railway traffic;
  3. the railway vehicles used for transport on the lines of the railway network in the

Republic of Macedonia shall meet all the safety standards, regulating the security of the railway transport pursuant to the Law on Railway Transport Safety;

4. the conditions on protection from noise and environment protection.

- (5) The more precise criteria relating to the technical conditions and the necessary measures for ensuring transport safety, the necessary number of employees responsible for organisation and/or monitoring of the professional abilities, the criteria relating to the rolling stock and the measures for protection from noise and protection of the environment shall be prescribed by the Minister for Transport and Communications in agreement with the Minister for Environment and Physical Planning.
- (6) The safety certificate referred to in paragraph 2 of this Article shall include:
  - certificate confirming the acceptance of the safety management system of the carrier,
  - certificata confirming the acceptance of the provisions adopted by the carrier for fulfilment of special conditions for safe network operation.
- (7) The manner on issuing and revoking of the safety certificate, the form and the content of the certificate form, the form, the content and the manner of keeping the register of issued and revoked certificates, as well as the level of the compensation for issuing the certificate shall be prescribed by the Ministry of Transport and Communications.
- (8) If in the course of the inspection supervision, the inspector establishes the emergence of certain circumstances due to which the safety certificate holder no longer fulfils the conditions referred to in paragraph 4 of this Article, the Ministry of Transport and Communications shall adopt a decision repealing the safety certificate.
- (9) If in the course of the inspection supervision, the inspector establishes the emergence of certain irregularities which are not essential for the safety of the railway traffic, the competent inspector and other authorised civil servants shall adopt a decision ordering elimination of these irregularities and stipulating a period within which the safety certificate holder is to eliminate such irregularities.
- (10) Should the safety certificate holder not eliminate the established irregularities within the defined period, the Ministry of Transport and Communications shall adopt a decision repealing the safety certificate.
- (11) An complaint may be lodged against the decision of the Ministry of Transport and Communications referred to in paragraph 2, 8 and 10 of this Article with the Commission for deciding in an administrative procedure of second degree in the area of the transport and communications and environment within the Government of the Republic of Macedonia within 15 days upon receipt of the decision.
- (12) The complaint lodged against the decision referred to in paragraphs 8 and 10 of this Article shall not postpone the execution thereof.

### **Article 13**

The legal persons performing transport for their own needs shall possess a safety certificate, issued under the conditions and manner laid down in Article 12 of this Law.

## **IV. RAILWAY INFRASTRUCTURE**

### **Article 14**

- (1) The railway infrastructure shall encompass: the railway lines with upper and lower line, railway stations, facilities, railway installations and devices, electricity systems, signalling-safety systems, telecommunication and information systems in railway traffic, buildings, depots and other construction facilities on railway stations that contribute to the organisation and regulation of the railway traffic and maintenance of the infrastructure, the land that functionally belongs to the railway and the land below it and the railway line area facilities and the railway line area above the railway on a 12 i.e. 14 meters height with a long-distance power line of voltage higher than 220 KV passing through, with regard to the upper rim of the track;
- (2) The constitutional parts of the railway infrastructure referred to in paragraph 1 of this Article, shall be defined more precisely by the Minister for Transport and Communications.

## **1. Railway infrastructure management**

### **Article 15**

- (1) The railway infrastructure management is an activity of public interest.
- (2) The activity referred to in paragraph 1 of this Article shall be performed by the infrastructure manager.
- (3) The infrastructure manager shall:
  - organise and regulate the railway traffic;
  - provide access to and utilisation of the railway infrastructure to all railway carriers complying with the condition as prescribed by this Law;
  - organise the public transport and the transport for own needs;
  - plan the construction, reconstruction, renovation, maintenance and protection of the railway infrastructure;
  - carry out the modernisation, maintenance and protection of the railway infrastructure, track vehicles and machines;
  - undertake measures on protection from noise and environment protection;
  - carry out other activities in connection with railway activity.
- (4) In order to manage the railway infrastructure, the infrastructure manager, shall possess a railway infrastructure management permit and a safety certificate for railway infrastructure management.
- (5) In order to obtain a safety certificate for railway infrastructure management the infrastructure manager must fulfil the following conditions:
  1. The seat of the legal person must be on the territory of the Republic of Macedonia;
  2. He must be entered in a register for performing activities in accordance with paragraph 3 of this Article;
  3. No bankruptcy procedure can be in process;
  4. The responsible person or a member of the management body of the legal person must not be convicted for a criminal act relating to the public finances, payment operations and the economy, a criminal act against the general safety of persons and property, criminal act against the public relations, avoiding customs supervision and failure to pay customs and other duties which are to be paid in a customs procedure in cases when the carrier seeks permit for international transport of goods which is subject to customs procedure, until the consequences of the sentence have effect, and no misdemeanour sanction with a prohibition to perform his activity may be pronounced to him for one or

several years;

5. He must be financially capable, i.e. he must be able to fulfil his current and future liabilities under normal course of work within 12 months, which is to be proved by submitting a document of his economic and financial capability issued by the Central Register of the Republic of Macedonia;
  6. To be insured in an insurance company and to submit a written evidence of the ability to compensate for a possible damage resulting from the responsibility of the performance of his activity, in accordance with the law and other regulations, as well as international agreements which are obligatory for Republic of Macedonia.
- (6) The public enterprise responsible for the railway infrastructure referred to in Article 3 paragraph 4 of this Law shall be considered to fulfil the conditions of paragraph 5 of this Article.
- (7) In order to obtain a safety certificate for railway infrastructure management the infrastructure manager:
- shall comply with the appropriate technical conditions and the conditions on organisation and regulation of the railway traffic;
  - the railway infrastructure he manages shall satisfy the standards prescribed by the Law on Railway Transport Safety and other regulations;
  - to have professional and technical staff employed, with adequate professional qualifications, which fulfil the conditions for organising and regulating the railway transport, as well as for organising the construction, reconstruction, renovation, modernisation and maintenance of the railway infrastructure.
- (8) The more precise criteria relating to the technical conditions and the conditions for organization and regulation of the railway transport, the necessary number of professional and technical staff employed, their professional qualifications necessary for the organization and regulation of the railway transport, as well as for reconstruction, repair and maintenance shall be prescribed by the Minister of Transport and Communications.
- (9) The safety certificate referred to in paragraph 4 item 2 of this Article shall include:
- certificate confirming the acceptance of the safety management system of the infrastructure manager,
  - certificate confirming the acceptance of the provisions adopted by the infrastructure manager for fulfilment of the special conditions necessary for safe design, maintenance and operation of the railway infrastructure, including the proper maintenance and management of the signalling system and the signalling marks.
- (10)** The manner of issuing and withdrawing of the permit and the safety certificate for railway infrastructure management, the form and the contents of the permit and of the safety certificate shall be prescribed by the Minister of Transport and Communications.

## Article 16



The infrastructure manager may participate in international cooperation, be a member in specialised international organisations and may establish a representative office abroad.

### **Article 17**

- (1) The infrastructure manager shall be bound to provide permanent, uninterrupted and high-quality access to the railway infrastructure and the other railway operation facilities, as well as organise and regulate safe railway traffic. The infrastructure manager may delegate some of his responsibilities to other executives, if he believes that it is technically and financially justifiable. The manager shall notify the Ministry of Transport and Communications of the delegation of his duties to other executives.
- (2) The infrastructure manager may suspend the access to the railway infrastructure or a part thereof, due to unprofitability.
- (3) The infrastructure manager may redesign the railway line or a part thereof the access to which shall be suspended due to unprofitability as referred to in paragraph 2 of this Article as a manipulation railway line for other purposes and define the conditions for its utilisation.
- (4) The Minister for Transport and Communications shall give his consent for the suspension of the access as referred to in paragraph 2 of this Article and for the redesign of the railway line into a manipulation railway line for other purposes.
- (5) The infrastructure manager shall be bound to submit a decision on suspension of the access referred to in paragraph 2 of this Article to the railway carriers minimum six months prior to the date established for the suspension of the transport.
- (6) In the performance of his duty, the infrastructure manager shall be bound to take care of the protection of the environment and nature pursuant to the Law on Environment Protection and other regulations relating to environment.
- (7) The infrastructure manager shall be responsible for the damage done to the transport users, railway carriers and other legal and natural persons due to non-compliance with the obligations referred to in paragraph 4 of this Article based on the general indemnity principles.

## **2. Construction, reconstruction and renovation of railway infrastructure**

### **Article 18**

- (1) The construction of a railway infrastructure, within the meaning of this Law, shall be considered to be the construction of an new railway line on a new route, as well as construction of telecommunication, signalling and safety, electrical and towing, electrical and energy installations and devices, buildings and facilities on a new railway line and on the existing lines.
- (2) The provisions of this Law, regulating the construction of the railway infrastructure shall be also valid for the reconstruction of the railway infrastructure.

- (3) The railway infrastructure shall be designed, constructed, reconstructed, renovated, equipped and maintained so as to suit its purpose, the traffic safety needs and the protection of the environment and nature, pursuant to this Law and other regulations, as well as the established transport and access power of the railway line, the train speed, the axel load and the weight of the freight vehicles on a meter length.
- (4) The railway lines used for international traffic must comply with the conditions defined by international agreement which are binding on the Republic of Macedonia.

#### **Article 19**

- (1) The railway infrastructure shall be designed and constructed based on the conditions specified by this Law, the relating regulations adopted on the basis of this Law, as well as the norms and standards concerning the railway infrastructure.
- (2) The norms and standards referred to in paragraph 1 of this Article are more closely prescribed by the Minister for Transport and Communications in agreement with the Minister for Environment and Physical Planning separately for each component of the railway infrastructure defined in Article 14 paragraph 1 of this Law.

#### **Article 20**

- (1) By a construction or a reconstruction of a railway line, the investor shall be bound to move the installations (pipelines, water-systems, electric, telephone and telegraph air lines, underground cables and other similar installations and devices) at his own expense, i.e. to adjust them to the occurred changes.
- (2) The investor shall be bound to notify the installation holders 60 days prior to the initiation of his works.
- (3) The investor shall be bound to enable the installation holder to have an insight in the documentation necessary for the movement of the installations.

#### **Article 21**

- (1) The railway shall be built in accordance with the special conditions for construction of a railway.
- (2) Notwithstanding the special conditions referred to in paragraph 1 of this Article, the special technical conditions for safe railway transport by railway shall be applied during the railway construction.
- (3) The special conditions referred to in paragraph 1 and paragraph 2 of this Article shall be prescribed by the Minister of Transport and Communications.

- (4) The consent of the technical documentation necessary for obtaining a railway construction permit, in accordance with the conditions prescribed in paragraph 3 of this Article shall be given by the Ministry of Transport and Communications .
- (5) The infrastructure manager and the other legal persons shall be responsible for keeping record of the railway lines and installations, facilities and railway line devices, as well as other technical data which are important for the safety of the railway traffic.
- (6) The manner on keeping the records referred to in paragraph 5 of this Article shall be perscribed by the Minister for Transport and Communications.

#### **Article 22**

- (1) In the course of and after a complete or partial construction or reconstruction of the railway lines and installations, facilities and railway line devices following thier completion and in the stage when they may be used for traffic purposes, a technical inspection defining whether they satisfy the technical norms and other conditions regarding the technical and technological unity in the railway traffic, must be conducted.
- (2) The technical inspection of the railway lines and installations, facilities and railway line devices shall be conducted by the Ministry of Transport and Communications.
- (3) The railway lines and installations, facilities and railway line devices may be put into operation solely on the basis of a decision issued by the Minister for Transport and Communications.

#### **Article 23**

The crossing of railway lines and the crossing of a railway line with some other railway type (industrial railway lines, industrial gauge, a tram line and the like) shall normally be at different levels.

#### **Article 24**

- (1) If a part of the railway line should be moved due to construction of another facility (public road, airport, hydro-accumulation, energy facilities, mines and the like) the part of the railway line moved shall be constructed with elements suitable for that category of railway line, regardless of its actual situation at the moment of movement.
- (2) The costs for the movement of a part of the railway line referred to in paragraph 1 of this Article shall be borne by the investor of the facility, the construction of which gives rise to the railway line movement.

#### **Article 25**

If the crossing of a railway line and a public road, i.e. an uncategorised road is a result of a construction of a new railway line, or upon request by the municipality, or the City of Skopje or another legal person, the costs for construction of overpasses and underpasses, i.e. a road crossing, the costs for placement of devices and facilities, as well as other costs for provision of a safe and uninterrupted traffic on the road crossing shall be borne by the investor of the new railway line.

#### **Article 26**

- (1) The renovation works of the railway line shall be performed on the basis of the technical documentation, the renovation of the railway line being at least on the level of the standards and norms satisfied by its design.
- (2) The consent regarding the technical documentation for performance of railway line renovation works shall be given by the Minister for Transport and Communications.
- (3) The manner, dynamics and conditions for the railway line renovation shall be defined by the infrastructure manager.
- (4) The technical inspection of the railway line renovation works shall be conducted by the Ministry of Transport and Communications.
- (5) The renovated railway line elements may be put into operation solely on the basis of a decision issued by the Minister for Transport and Communications.

### **3. Maintenance**

#### **Article 27**

- (1) The railway infrastructure must be kept (continuously and by investments) in a state which ensures safe transport.
- (2) The infrastructure manager and other legal persons responsible for the maintenance referred to in paragraph 1 of this Article must fulfil the conditions referred to in Article 15 paragraph 5, item 1, 2, 3, 4, 5 and 6 of this Law, the conditions relating to the equipment and training of the employed staff, as well as to comply with the conditions on the technical installations and maintenance procedures in accordance with the allowed noise level with respect to environment protection prescribed by the regulations for noise protection.
- (3) The manner of maintenance of the railway infrastructure for each component thereof shall be prescribed with separate acts by the Minister for Transport and Communications.

#### **Article 28**

- (1) In the crossings of categorized and uncategorized public roads and a railway line, the maintenance of the gauge, other installations and devices for the purposes of the railway line, the roadway at a distance of 3 metres from the gauge axel on both sides of the road crossing, traffic signalisation of the railway line and the road, the placement and maintenance of the installations and devices for the purposes of the road and the railway line, as well as the ensuring of visibility of the road crossing shall be responsibility of the railway infrastructure manager.

- (2) The maintenance of the other road elements at a distance greater than 3 metres from the gauge axel, on both sides of the road crossing and the road signalisation is responsibility of the legal person who manages the road by ensuring safe and uninterrupted railway traffic.

#### **Article 29**

- (1) The funds for covering of the expenses referred to in Article 28 paragraph 1 of this Law shall be provided by the institution competent for construction and maintenance of national and regional roads in accordance with the Annual Programme on Equipment, Maintenance and Protection of Road Crossings adopted by the infrastructure manager pursuant to this Law and the Law on Public Roads.
- (2) The costs for maintenance of other road elements referred to in Article 28 paragraph 2 of this Law shall be borne by the legal person managing the road.

#### **Article 30**

- (1) If the legal person solely or mainly uses uncategorised roads, the costs incurred for maintenance of the roadway and provision of safe and uninterrupted traffic on the road crossing shall be borne by the legal person.
- (2) If the industrial gauge or the industrial line cross a street in a residential area, the costs incurred for maintenance of the roadway and provision of safe and uninterrupted traffic shall be borne by the owner of the industrial gauge or the industrial line.

#### **Article 31**

- (1) If the road crossing is replaced by an overpass, i.e. underpass, or it is suspended due to redirection of the road traffic, the costs for the performed change on the railway line and the road, if not otherwise agreed shall be borne by:
1. The infrastructure manager if the change is chiefly necessary for the performance of the railway traffic;
  2. The legal person managing the road, if that change is chiefly necessary for the performance of the road traffic;
  3. The legal person principally using the road.
- (2) In the event of other changes regarding the crossing, including the adapting and improvement of the safety, the costs incurred for the modification of the railway line and the road shall be borne by the infrastructure manager, i.e. by the legal person managing the road proportionately, depending on the needs of the railway traffic and the road traffic which conditioned those modifications, unless agreed otherwise.

### **4. Protection of the railway infrastructure**

### **Article 32**

- (1) The activities relating to the protection of railway lines, facilities, devices, installations, equipment and other protection activities shall be performed by the infrastructure manager.
- (2) The protection activities referred to in paragraph 1 encompass undertaking measures necessary for prevention of unauthorised activities and elimination of the consequences resulting from the unauthorised activities performed on the railway line, in the railway body, the railway area and the protected area, facilities, installations, equipment of the railway area and the protected area etc, as well as initiation of a procedure for returning of the usurped railway area land before a competent authority.
- (3) The State Transport Inspectorate shall be notified of the unauthorised activities performed in the railway body, the railway area and the protected area.
- (4) The entity performing the unauthorised activities is liable, upon an order by the railway infrastructure inspector, immediately to eliminate the consequences resulting from the performance of unauthorised activities.
- (5) If the consequences resulting from the performance of such unauthorised activities are not eliminated by that entity, the infrastructure manager shall eliminate those consequences at the expense of the entity referred to in paragraph 4 of this Article.
- (6) The manner on performing the railway infrastructure protection activities shall be prescribed by the Minister for Transport and Communications.

### **Article 33**

- (1) The telephone, telegraph and other cable ducts, low-voltage electrical ducts, i.e. ducts for power-supply, sewage, water system, heating lines, pipelines and other similar devices may be placed in the railway and protected area upon a request submitted by a legal or natural person and solely in accordance with the terms and manner defined in the consent given by the infrastructure manager.
- (2) The costs referred to in paragraph 1 of this Article shall be borne by the person submitting the request.
- (3) The infrastructure manager may ask the owner of the installations and devices referred to in paragraph 1 of this Article, to rearrange or to move them when it is deemed necessary for the purposes of restoration or reconstruction, renovation of the railway infrastructure or due to bringing measures for protection of the railway infrastructure and traffic.
- (4) The costs for rearrangement or moving of the installations shall be borne by their owner.
- (5) The infrastructure manager may reject the request on giving the consent referred to in paragraph 1 of this Article, if their position would damage the railway infrastructure or endanger the railway traffic safety, if the position thereof would have a significant influence on the maintenance of the railway infrastructure or would hinder its reconstruction.

### **Article 34**

The activities for protection of the railway lines and the facilities thereon, the activities enabling a regular and safe traffic and other activities relating to the railway line, the railway and protected area may be performed if the infrastructure manager had given his consent.

### **Article 35**

- (1) Buildings and other facilities may be built and other installations and devices may be put in the protected area of the railway based on an permit and under the following conditions:
  1. In residential areas, mountain and swamp terrains, or other areas, where the conditions of the terrain require that, the opening of mines, quarries, construction of facilities for production of lime, bricks, construction of industrial buildings , installations and similar facilities in the railway protected area may be approved, if the land where these facilities are built is found in an area defined by the municipality authority for construction of buildings and facilities, however not closer than 50 metres from the axel of the end gauges;
  2. In the residential areas and on the land referred to in item 1 of this Article, construction of blocks of flats, business, auxiliary and similar facilities, digging wells, reservoirs, septic tanks and the like, putting up electric lines is authorised in the railway protected area, however not closer than 25 metres from the axel of the end gauges;
  3. In the protected area inscriptions and advertising boards may be put up at a distance of at least 7 metres from the end point of the rail area.
- (2) The permit referred to in paragraph 1 of this Article shall be issued by the infrastructure manager.
- (3) The costs relating to the issue of the authorisation referred to in paragraph 1 of this Article shall be borne by the person submitting the request.
- (4) In city settlements with urban plans or urban projects in accordance with the law, only facilities at a distance which can not be less than 10 metres from the end point of the rail area may be built in that protected area.

### **Article 36**

- (1) The infrastructure manager shall be bound at spots with rock falls, torrents, spots liable to river erosion and influence of strong winds, where the railway traffic may be interrupted or endangered, independently or with another legal person, promptly to take the necessary measures of technical and physical protection of the railway lines and the railway facilities from natural disasters, due to enabling safe performance of the railway traffic.
- (2) The infrastructure manager in the cases referred to in paragraph 1 of this Article may put and maintain temporary protection devices and place material and other devices in the protected railway area without having acquired an authorisation, if it is deemed necessary for the measures to be taken to ensure the safe performance of the railway traffic, i.e. for setting up of the railway traffic.
- (3) When the reasons referred to in paragraph 1 of this Article cease to exist, the infrastructure manager is liable to remove the temporary protection devices, the material and the other devices which remained in the protected railway area when the measures for ensuring safe performance of the railway traffic, i.e. setting up of the railway traffic were taken, to convert the area in its original state and to pay compensation for using the land.

### **Article 37**

- (1) On the spots where the railway line goes through or by forests, or land where easily flammable agricultural crops are grown, the land or forest manager shall be bound to take the prescribed measures for fire protection of the railway line area, as well as measures for fire protection of the rolling stock.
- (2) The users, i.e. the owners of the forests and land referred to in paragraph 1 of this Article shall be bound, in an area of a 10 metre width in forests, to remove the dry trees, bushes and leaves, and in area of 5 metre width on other land timely to remove the dry and flammable plants and to take other fire protection measures.

### **Article 38**

By cleaning of snow from overpasses over electrified railways mechanical protection has to be enabled, so that the snow shall not fall on the contact network.

### **Article 39**

- (1) Only facilities and installations intended for the railway infrastructure may be built in the railway area.
- (2) By derogation from paragraph 1 of this Article, upon a previous consent of the infrastructure manager, facilities and installations of other legal persons designed for loading and reloading of freight for railway transport may be built.
- (3) The infrastructure manager shall keep records on: the state of the railway lines, the



geometrical characteristics of the railway and the railway area, the land cadastre, the terrain characteristics important for the protection of the railway, installations within and out of the

railway and railway area body, the railway and railway area equipment, the railway equipment with the traffic signalisation, telecommunication devices, contact network, safety fence, road crossings and other data, as well as the modifications of such data.

- (4) The manner of keeping records and using the data referred to in paragraph 3 of this Article shall be prescribed with separate acts with regard to the type of the records by the Minister for Transport and Communications.

## **5. Industrial railway and industrial gauge**

### **Article 40**

- (1) The provisions of this Law relating to construction, reconstruction, renovation, maintenance and protection of the railway infrastructure shall apply to the industrial railway and the industrial gauge.
- (2) The industrial railway or the industrial gauge may be connected to the railway infrastructure.
- (3) A legal or a natural person may have an industrial gauge connected to the railway infrastructure, as well as industrial gauges, installations, devices and facilities for those gauges, railway transport means and other means constructed by using particular norms and standards.
- (4) The connection of the industrial railway referred to in paragraph 2 of this Article and of the industrial gauges referred to in paragraph 3 of this Article shall be regulated by an agreement of the infrastructure manager and the enterprise, the legal or natural person whose industrial railway, i.e. industrial gauge was connected.
- (5) A legal or a natural person owner of an industrial gauge shall be bound to adopt an act relating to the terms of construction, reconstruction, renovation, maintenance and protection of the industrial gauge, railway transport means and other means constructed by using particular technical norms and standards, as well to organise and regulate the railway traffic on the industrial gauge, having a previously acquired permit issued by the Ministry of Transport and Communications.

## **6. Access to the railway infrastructure**

### **Article 41**

- (1) A carrier having a public transport permit and a safety certificate may provide services in the public transport of the railway infrastructure, provided that he has an access thereto.
- (2) The infrastructure manager shall approve the access to the railway infrastructure to all railway carriers complying with the conditions prescribed by this Law.
- (3) In order to have access to the railway infrastructure the carriers shall conclude an agreement with the infrastructure manager.

- (4) The agreement for access to the railway infrastructure shall be non-discriminatory and in accordance with the provisions of this Law.
- (5) The agreement for access to the railway infrastructure referred to in paragraph 3 of this Article shall regulate the mutual rights and liabilities of the carriers and the infrastructure manager with reference to the allocated infrastructure capacities, the amount of the compensation for using the railway infrastructure, the validity period of the contract and the possibilities for its extension, as well as other issues relating to the transport safety and environment protection.

## **7. Compensation for using the railway infrastructure**

### **Article 42**

- (1) The carrier shall pay a compensation for using the railway infrastructure. The amount of the compensation shall be determined and collected by the infrastructure manager.
- (2) The Government of the Republic of Macedonia on a proposal by the Minister for Transport and Communications shall give its consent regarding the amount of the compensation referred to in paragraph 1 of this Article.
- (3) The assets from the collection of the compensation are acquired by the infrastructure manager.
- (4) The criteria on defining the level of the compensation for using the railway infrastructure shall be equal for all carriers and non-discriminatory.
- (5) The infrastructure manager may by agreement with the infrastructure managers of other states define a common scheme for defining the compensation, complying with the independence in the infrastructure management.
- (6) The amount of the compensation for using the infrastructure shall be defined on the basis of the kilometres passed by the train, the composition, weight and speed of the train, the axle load, the period of using the infrastructure and other specific requirements.
- (7) The infrastructure manager shall be bound in defining the amount of the compensation for using the infrastructure to apply such a calculation method, so as to ensure equal and non-discriminatory compensation to the different permit holders providing the same kind of services.

## **8. Allocation of infrastructure capacities**

### **Article 43**

- (1) Applications for allocation of infrastructure capacity may be submitted by carriers and international groupings (hereinafter referred to as "applicants").
- (2) The conditions to be fulfilled by the applicants for allocation of infrastructure capacity shall be defined by the infrastructure manager and they should be appropriate, clearly defined, transparent and non-discriminatory.

- (3) Subject to the conditions referred to in paragraph 2 of this Article the expected profits from the utilisation of the infrastructure capacities should be made.
- (4) The conditions referred to in paragraph 2 of this Article shall be defined in the network statement issued by the infrastructure manager, as a part of the principles for allocation of the infrastructure capacities.
- (5) The allocation of the infrastructure capacities shall be made by the infrastructure manager, having regard to the type and volume of the transport, the utilisation of the railway infrastructure, the financial and business abilities of the carrier, the additional services provided by the manager in relation to the transport by using the infrastructure capacity, as well as the activity which is of public interest in the public transport.
- (6) The carrier may not transfer the allocated infrastructure capacity to another carrier.
- (7) Any trading in infrastructure capacities shall be prohibited.
- (8) The right to utilisation of the infrastructure capacities in the form of train paths shall be normally approved to the applicant once a year for the validity period of a single timetable. In the event of extraordinary requests of the carrier for allocating a capacity during the validity period of the timetable ( ad hoc), the infrastructure manager may satisfy such requests provided that there are sufficient free capacities available on the basis of the principle “ first come- first served”.
- (9) The infrastructure manager and the applicants may conclude a framework agreement on using the capacities of the respective railway infrastructure and with a validity period longer than that of a single timetable, provided that it does not preclude the use of the relevant infrastructure by other applicants or services.
- (10) The infrastructure manager may by agreement with the infrastructure managers define a common framework and procedure for defining the allocation of infrastructure capacities, complying with the independence in the infrastructure management.
- (11) When the allocation of the infrastructure capacities is performed for more than one network, the infrastructure manager shall cooperate with infrastructure managers of other states, so as to enable participation and allocation of infrastructure capacities on equal terms, for the purposes of organising international train paths.
- (12) Applicants may request infrastructure capacity crossing more than one railway networks.
- (13) The application referred to in paragraph 12 of this Article shall be submitted to one infrastructure manager, who shall then be permitted to act on behalf of the applicant to seek capacity with the other relevant infrastructure managers.

## **9. Network statement**

### **Article 44**

- (1) The infrastructure manager shall develop and publish a network statement obtainable on a web site without payment of compensation.
- (2) The network statement shall be published on a web site or in minimum two newspapers no less than four months in advance of the deadline for requests for infrastructure capacity, as defined by the infrastructure manager.
- (3) The network statement shall inevitably set out the nature of the infrastructure which is available to the carriers, information setting out the conditions for access to the relevant railway infrastructure and the allocation of capacities, the principles on determining the compensation for utilisation of the railway infrastructure, as well as the priority criteria if the infrastructure is declared to be congested.
- (4) The network statement shall be kept up to date and modified as necessary. All the modifications to the network statement shall be published on the infrastructure manager's web site, or in at least two newspapers pursuant to paragraph 1 of this Article.

## **10. Harmonisation procedure for the allocation of infrastructural capacities**

### **Article 45**

- (1) The infrastructure manager shall as far as is possible meet all requests for infrastructure capacity including requests for train paths crossing more than one network.
- (2) In the event of congested infrastructure, the infrastructure manager may in a capacity allocation and timetable harmonisation procedure, based on the analysis of the capacities, determine the priorities for allocating infrastructure capacity. The infrastructure manager shall present all interested parties with the draft timetable and request them to submit their opinions relating to the draft in writing.
- (3) The period for submitting the opinions about the draft timetable may not be longer than one month since the receipt thereof. When a situation requiring coordination of the timetable with the requests of the interested carriers arises, the infrastructure manager shall have the right to propose infrastructure capacity that differs from that which was requested.

## **11. Timetable**

### **Article 46**

- (1) Timetable must be established for the transport of each train.
- (2) The timetable of public transport trains and its validity period shall be determined in advance by the infrastructure manager.
- (3) The timetable referred to in paragraph 2 of this Article must be in harmony with the timetable of the international railway transport.
- (4) The infrastructure manager shall be bound to ensure that the train transport is performed in accordance with the established timetable and to take necessary measures to ensure its safe, regular and uninterrupted performance.

### Article 46a

- (1) The timetable of trains for regular transport of passengers must be published in the written and electronic media at least 15 days prior to the day of its entering into force.
- (2) The publication of the timetable referred to in paragraph 1 of this Article shall be carried out by the publication of a unique timetable and a presentation of a timetable document.
- (3) The procedure for drawing up, establishing of timetables and presentation of timetable documents shall be defined by the infrastructure manager.

### Article 46b

- (1) The timetable of trains for regular transport of passengers may not be suspended or modified during its validity period.
- (2) As an exception from paragraph 1 of this Article the Ministry of Transport and Communications may approve suspension or modification of the timetable of trains performing regular transport of passenger even in the course of its validity period, due to modification of the working hours of the transport users, the volume of the transport needs, or if the valid timetable does not correspond with the passenger needs.
- (3) The cancellation of the operation of certain trains due to force majeure, in extraordinary circumstances and due to elimination of their consequences, as well as necessary activities on the railway, provided that the transport safety depends on them may not be regarded as suspension of the timetable, if their duration is less than 30 days.

## **12. Regulatory body**

### **Article 47**

- (1) With a view to enabling transparent and unbiased performance of the railway transport activities, provided as services in the public transport, a regulatory body shall be established by a separate law.
- (2) The regulatory body should ensure transparent and non-discriminatory performance of the infrastructure manager and the carrier and it must be independent from the infrastructure

manager and the carrier on the basis of the manner of its establishment, funding and decision-making.

- (3) The carrier may lodge a complaint with the regulatory body, if he finds that regarding the allocation of infrastructure capacities he was not been treated in the same manner as the other applicants participating in the allocation procedure or suffers other damage in relation to:
- the network statement,
  - the criteria included therein,
  - the process and procedure of allocation of infrastructure capacities and the outcome of running the whole process,
  - the rules on collection of charges for access to the infrastructure capacity,
  - the amount or structure of the charges for using the infrastructure.
- (4) The regulatory body shall reach a decision upon the complaint within two months from the submission of the complaint.
- (5) The regulatory body shall reject the complaint by a decision, if it finds that the decision adopted by the infrastructure manager is correct, or it shall accept the complaint and impose on the infrastructure manager to modify the decision in accordance with the directions determined in the decision by which the complaint was accepted.
- (6) In the procedure pending the decision upon the complaint, the regulatory body shall be entitled to demand additional data and information from the infrastructure manager, the party submitting the request or third interested parties.
- (7) The decision adopted by the regulatory body shall be binding to all parties.
- (8) Administrative procedure may be initiated against the decision adopted by the regulatory body within 30 days from the receipt thereof.

#### Article 47a

The regulatory body shall exchange information on its work, as well as on the practices for harmonisation of the deciding principles with other regulatory bodies.

### **13. Planning of construction, reconstruction, modernisation, renovation and maintenance of the railway infrastructure**

#### **Article 48**

- (1) The plans for construction of a new railway line, as well as reconstruction, modernisation, renovation and maintenance of the existing railway infrastructure shall be governed by a encompassing and dynamic National Programme relating to the railway infrastructure, which is adopted for a period of five years (hereinafter referred to as “national programme”).
- (2) The National Programme referred to in paragraph 1 of this Article shall be adopted by

the Assembly of the Republic of Macedonia, upon a proposal of the Government of the Republic of Macedonia, following the adoption of the Fiscal Strategy of the Republic of Macedonia.

- (3) The National Programme referred to in paragraph 1 of this Article shall be reviewed each year by the Assembly of the Republic of Macedonia, upon a proposal of the Government of the Republic of Macedonia, by excluding the previous year and adding one supplementary year.
- (4) The National Programme shall define the most significant tasks relating to construction, reconstruction, modernisation, renovation and maintenance of the railway infrastructure, their volume, dynamic for completion of the priorities, as well as the amount of the funds necessary for accomplishment of the tasks.



- (5) The regulations applying to the drawing up of the annual budget of the Republic of Macedonia shall be applicable accordingly in the process of defining the amount of the budget funds for the plans referred to in paragraph 1 of this Article.
- (6) On the basis of the adopted National Programme referred to in paragraph 1 of this Article the infrastructure manager, in agreement with the Minister for Transport and Communications, shall draw up an annual plan for construction, reconstruction, modernisation, renovation and maintenance of the railway infrastructure, the drawing up of which must be in harmony with the deadlines for drawing up and adoption of the Budget of the Republic of Macedonia.
- (7) The Minister for Transport and Communications based upon the report of the infrastructure manager shall submit a report on the implementation of the annual plan referred to in paragraph 6 of this Article, to the Government of the Republic of Macedonia.

## **14. Concession**

### **Article 49**

- (1) A concession may be granted for:
  1. Construction of a new railway infrastructure;
  2. Management of the overall existing railway infrastructure or a part thereof pursuant to this Law;
- (2) A concession for management of a part of the existing railway infrastructure may be granted upon a proposal of the Minister for Transport and Communications or upon a proposal of the infrastructure manager approved by the Minister for Transport and Communications, when such a concession is economically justifiable.
- (3) A concession may be granted to a domestic and a foreign legal or natural person (concessionary), possessing sufficient resources and such staff and equipment at their disposal, so as to ensure successful completion of the tasks forming the subject of the concession.
- (4) In order to obtain the concession referred to in paragraph 1 item 2 of this Article, the applicant must possess a railway infrastructure management permit and a safety certificate.
- (5) The decision on granting the concession referred to in paragraph 1 of this Article shall be made by the Government of the Republic of Macedonia.
- (6) The granting of the concession shall be performed pursuant to this Law and the Law on Concessions.
- (7) The granting of a concession is subject to a compensation in an amount and manner laid down in the Law on Concessions.

#### **Article 50**

- (1) The concession for construction of a new railway infrastructure shall be given for a period which may not be longer than 50 years since the day when the concession was granted.
- (2) The concession for management of a part of the existing railway infrastructure shall be given for a period which may not be longer than 20 years since the day when the concession was granted.

#### **Article 51**

- (1) The mutual rights and responsibilities of the Government of the Republic of Macedonia and the concessionaries shall be defined by means of a Concession Agreement.
- (2) The Agreement referred to in paragraph 1 of this Article shall, *inter alia*, regulate the terms on using the concession, the method of payment and the amount of the compensation.

#### **Article 52**

The concessionary shall be bound to design, construct and put into operation, i.e. utilise the railway infrastructure or a facility on the railway, in accordance with the regulations, norms and standards pertaining to that type of facilities applicable in the Republic of Macedonia.

#### **Article 53**

The rights and responsibilities laid down in this Law and the regulations adopted on the basis of this Law relating to maintenance, protection and supervision of the railway infrastructure and the implementation of the measures ensuring railway traffic safety shall also be valid for the concessionary.

#### **Article 54**

The concession shall cease to be valid in a manner and under the conditions provided for in the Law on Concessions and in other cases provided for in the Concession Agreement.

### **15. Revoking of the status of benefit for the general interest for the Republic**

#### **Article 55**

- (1) The part of the railway infrastructure for which there is no general interest or interest of the service users in the public transport, or where the public transport has permanently stopped may lose its status of benefit for the general interest of the state.
- (2) The decision on permanent termination of the public transport and revoking of the status of benefit for the general interest of the state referred to in paragraph 1 of this Article shall be adopted by the Assembly of the Republic of Macedonia, upon a proposal of the Government of the Republic of Macedonia.
- (3) The Government of the Republic of Macedonia may transfer the part of the railway infrastructure which lost the status of benefit for the general interest referred to in paragraph 1 of this Article to another user, or authorise the infrastructure manager to

undertake legal matters relating to its future status and purpose under the conditions laid down in the decision referred to in paragraph 2 of this Article.

## **16. Funding of the railway infrastructure**

### **Article 56**

- (1) The funding of the railway infrastructure shall be performed in accordance with the annual plan referred to in Article 48, paragraph 6 of this Law.
- (2) The funds for construction of a railway infrastructure shall be provided through:
  1. Funds of the Budget of the Republic of Macedonia for the current year;
  2. Credits and loans;
  3. Other sources.
- (3) The funds for reconstruction, renovation, maintenance and protection of the railway infrastructure shall be provided through:
  1. Compensation for using the railway infrastructure;
  2. Funds of the Budget of the Republic of Macedonia in the amount of minimum 0,3% of the planned tax revenues of the central Budget of the Republic of Macedonia for the current year;
  3. The budgets of the local self-government units intended for funding of services of public interest in the railway infrastructure;
  4. Part of investments of domestic and foreign entities;
  5. Funds from other sources.
- (4) The allocation of the funds and the manner of their utilisation shall be laid down in the annual plan referred to in Article 48, paragraph 6 of this Law.

## **V. SERVICES OF PUBLIC INTEREST IN THE PASSENGER RAILWAY TRANSPORT**

### **Article 57**

- (1) In order to realise public interest in the passenger transport in the Republic of Macedonia where the revenues accrued on the basis of the transport services do not cover the incurred costs, and to increase the capability of the carriers engaged in railway transport of passengers to compete with the other means of transport, the Government of the Republic of Macedonia upon a proposal of the Minister for Transport and Communications shall define such services.
- (2) In order to realise the public interest referred to in paragraph 1 of this Article on the area of the local self-government units, the councils of the local self-government units may define those services and notify the Ministry of Transport and Communications thereof.
- (3) The funds for the intention referred to in paragraphs 1 and 2 of this Article shall be provided from the Budget of the Republic of Macedonia and/or the budgets of the local self-government

units on the basis of the following criteria:

- Existence of public interest;
- Availability of other types of transport;

- The state policy regarding the price of the tickets for passenger railway transport;
- Investment in the railway transport safety.

#### **Article 58**

- (1) The Ministry of Transport and Communications, by means of a public tender pursuant to the Law on Public Procurement shall select the carrier to provide the services referred to in Article 57 of this Law.
- (2) The selected carrier shall conclude an agreement for a period of minimum five years with the Government of the Republic of Macedonia or the municipality mayors or the mayor of the City of Skopje. The agreement shall provide for the selected carrier to compensate for his expenditures on the basis of calculations as defined in the agreement.

#### **Article 59**

The funds for compensation of some of the expenditures of the carriers referred to in Article 58 of this Law, shall be provided from the Budget of the Republic of Macedonia, or the Budget of the local self-government units.

### **VI. DUTIES OF THE STRIKE BOARD AND THE EMPLOYEES DURING STRIKE**

#### **Article 60**

- (1) The strike board and the employees of the legal person performing public transport or of the legal person having an infrastructure management function, engaged in the strike shall be bound to ensure the necessary level of the working process, so as not to endanger the life, health, the economic and social security of the citizens and the necessary performance of the economic and other types of activities in the Republic of Macedonia, i.e. the following types of trains must be in operation during strike:
  - trains transporting animals;
  - trains transporting fresh products;
  - trains transporting dangerous substances and objects;
  - trains operating in the international traffic;
  - trains transporting resources, raw materials and operation materials necessary for the performance of the economic and other types of activities in the country;
  - trains transporting passengers in all routes of local traffic, including one couple of trains.
- (2) The strike board and the representative of the infrastructure manager and the representative of the carrier shall establish which employees shall be responsible for performance of the activities referred to in paragraph 1 of this Article.

- (3) The failure to ensure the necessary level of the operation process within the meaning of this Article shall be considered a serious infringement of the working duties.

## **VII. SUPERVISION**

### **Article 61**

The Ministry of Transport and Communications shall supervise the lawfulness of the operation of the infrastructure manager and the carriers, as well as the operation of other legal entities engaged in the railway transport.

#### **Article 62**

The State Transport Inspectorate (hereinafter referred to as: Inspectorate) shall supervise the implementation of the provisions of this Law and the regulations relating to the railway transport.

#### **Article 63**

- (1) The inspection supervision shall be performed by inspectors in charge of as follows:
  - railway infrastructure;
  - towing of trains and rolling stock;
  - railway traffic and transport;
  - signalling and safety installations, telephone, telegraph and electrical installations.
  
- (2) Only a person with completed university education, a graduate from the Faculty of Civil Engineering - traffic section, having minimum three years of professional experience may be appointed for the position of a railway infrastructure inspector.
  
- (3) Only a person with completed university education, a graduate from the Faculty of Electrical or Mechanical Engineering, having minimum three years of professional experience may be appointed for the position of inspector responsible for towing of trains and rolling stock.
  
- (4) Only a person with completed university education, a graduated traffic engineer - railway traffic and transport section, having minimum three years of professional experience may be appointed for the position of a railway traffic and transport inspector.
  
- (5) Only a person with completed university education, a graduate from the Faculty of Electrical Engineering, having minimum three years of professional experience may be appointed for the position of inspector responsible for signalling and safety installations, telephone, telegraph and electrical installations.

#### **Article 64**

- (1) The inspector shall be authorised to:
  1. order a temporary elimination of the technical and other deficiencies, i.e. temporary suspension from traffic of railway vehicles if their operation may endanger the railway traffic safety;
  2. temporarily remove from his workplace a railway employee immediately engaged in the traffic performance, if he does not comply with the health and professional requirements for individual performance of the tasks of his job position, or if he stays at his workplace longer than the prescribed working



hours.

3. order elimination of the irregularities in the railway traffic performance and harmonise such performance with the regulations and if necessary define the manner on elimination of the established irregularities;
4. order termination of the activities which are taking place on the railway line and the protected area of the railway if they are deemed to endanger the traffic safety;

5. order termination of the activities which are taking place on the railway line and the protected area of the railway if they are carried out without a construction authorisation;
  6. inspect the technical documentation relating to construction, reconstruction, renovation and maintenance of the railway lines;
  7. inspect the activities relating to construction, reconstruction, renovation, maintenance and protection of the railway and the facilities thereon;
  8. order destruction of a facility or a part thereof being constructed in the protected railway area, contrary to this Law;
  9. verify the compliance with the terms on railway infrastructure management;
  10. verify the compliance with the terms on railway transport of passengers and freight;
  11. verify whether the railway transport of passengers and freight is performed in a manner and under the terms provided for in this Law and the regulations defining the railway traffic safety;
  12. verify whether the established and published railway timetable is correctly and regularly implemented.
- (2) If the state of the railway is not such as to ensure safe traffic, the inspector shall immediately order measures for ensuring the traffic safety to be undertaken and if necessary he shall temporarily prohibit the railway traffic on that railway, i.e. the unsafe section of that railway.

#### **Article 65**

The legal and natural persons performing activities on the railway line or in the vicinity of the railway line shall be bound to enable the inspector to carry out an inspection, to give him the necessary explanations and to put the necessary technical documentation at his disposal.

#### **Article 66**

- (1) The inspector shall perform his inspection duties independently and he shall make a decision within the authorisations provided for in this Law.
- (2) An appeal may be lodged with the Minister for Transport and Communications against the decision of the inspector within eight days upon receipt of the decision.
- (3) The appeal referred to in paragraph 2 of this Article shall not postpone the execution of the decision, if required by the urgency of the measures defined in the decision.

#### **Article 67**

- (1) The inspector shall have an official identity card.

- (2) The manner on issuing and revoking of the official identity card, its content, form and symbol of the official identity card shall be prescribed by the Minister for Transport and Communications.
- (3) The inspector shall be bound to show his identity card when performing the inspection supervision.

### **Article 68**

The infrastructure manager and the carriers shall be bound upon request of the inspector to submit a report on the conditions of the railway lines and rolling stock.

## **VIII CRIMINAL PROVISIONS**

### **Article 69**

- (1) A fine ranging from EUR 3000 to 5000 in counter-value in denars will be pronounced for a legal person for the following offences:
  1. performance of public transport of passengers and freight without a transport permit (Article 6);
  2. performance of public transport of passengers and freight without a safety certificate (Article 12);
  3. performance of transport for own needs without a safety certificate (Article 13);
  4. design, construction, reconstruction, renovation, equipment and maintenance of railway infrastructure not corresponding to the traffic safety requirements and the requirements for protection of environment and nature (Article 18 paragraph 3);
  5. putting of water, sewage, electrical, telephone and telegraph ducts in the railway and protected area without having consent for performance of such activities (Article 33 paragraph 1);
  6. trading in infrastructure capacities (Article 43 paragraph 7);
- (2) A fine from EUR 1500 to 2000 in counter-value in denars will be pronounced for an offence referred to in paragraph 1 of this Article for the responsible person for the legal person.
- (3) A fine from EUR 500 to 1000 in counter-value in denars will be pronounced for an offence referred to in paragraph 1, item 4,5, and 6 of this Article for a natural person.

### **Article 70**

- (1) A fine ranging from EUR 2000 to 3000 in counter-value in denars will be pronounced for legal persons for the following offences:
  1. He does not eliminate the deficiencies within the period defined by the Ministry of Transport and Communications which may not be longer than 6 months (Article 8, paragraph 1);

2. He does not report the status changes, alteration of facts and circumstances important for the performance of the activity (Article 10, paragraph 1);
3. He puts into operation railway lines and installations, facilities and railway line devices without an operation decision (Article 22, paragraph 3);
4. If he performs the crossing of railway lines and the crossing of a railway line with some other railway type (industrial railway, industrial gauge, tram line and the like) contrary to Article 23 of this Law;

5. He performs railway renovation activities without having technical documentation and consent for such technical documentation (Article 26, paragraphs 1 and 2);
  6. He does not organise and does not continuously control the state and maintenance of the railway lines, installations, facilities, devices and equipment for those installations (Article 27, paragraph 1);
  7. He does not ensure the protection of the railway lines, facilities, devices, installations and equipment (Article 32, paragraph 1 and 2);
  8. He does not take necessary measures to ensure technical and physical protection of the railway lines and facilities (Article 36, paragraph 1);
  9. He does not comply with the defined timetable (Article 46, paragraph 3);
  10. He transfers allocated infrastructural capacity to another carrier (Article 43, paragraph 6).
- (2) A fine from EUR 800 to 1500 in counter-value in denars will be pronounced an offence referred to in paragraph 1 of this Article for the responsible person of the legal person.

#### **Article 71**

- (1) A fine ranging from EUR 1000 to 2000 in counter-value in denars will be pronounced for legal persons for the following offences:
1. The investor does not move or adjust the installations to the occurred changes when performing construction or reconstruction of a railway line ( Article 20, paragraphs 1 and 2);
  2. He does not keep records and other technical data which are important for the railway traffic safety (Article 21, paragraph 5);
  3. He does not maintain the road crossings which cross a railway line at the same level ( Article 28, paragraph 1);
  4. He performs other activities on the railway line and the railway area without having consent (Article 34);
  5. He constructs buildings and facilities, or places installations and devices in the protected area of the railway without having consent (Article 35);
  6. The infrastructure manager does not eliminate the temporary protection devices, the material and other devices and does not pay a compensation for using the land (Article 36, paragraph 3);
  7. He constructs facilities and installations in the railway area without the consent of the railway infrastructure manager (Article 39, paragraph 2);
  8. He does not keep a record (Article 39, paragraph 3);
  9. He does not adopt an act relating to the terms of construction, reconstruction, maintenance and protection of the industrial gauge, railway transport means,

as well as an act on organisation and regulation of the railway traffic (Article 40, paragraph 5);

10. He makes a transport statement without having concluded an agreement for access to the railway infrastructure (Article 41, paragraph 3).

- (2) A fine from EUR 500 to 1000 in counter-value in denars will be pronounced for an offence referred to in paragraph 1 of this Article for the responsible person of the legal person.

## **IX. TRANSITIONAL AND FINAL PROVISIONS**

### **Article 72**

Until the day of entering into force of the National Programme referred to in Article 48 of this Law, the funding of the railway infrastructure shall be performed in accordance with the Annual Plan referred to in Article 127 of the Law on Makedonski Zeleznici (Official Gazette of the Republic of Macedonia No. 9/98).

### **Article 73**

The Government of the Republic of Macedonia shall adopt the National Programme referred to in Article 48 of this Law by 30 June 2007 at the latest.

### **Article 74**

- (1) The regulations and other acts the adoption of which has been laid down by this law shall be adopted by 30 September 2007 at the latest.
- (2) Pending the entering into force of the regulations based on the permit provided for in this Law the existing regulations shall remain applicable.

### **Article 75**

On the day of entering into force of this Law, the Law on Makedonski Zeleznici (Official Gazette of the Republic of Macedonia No. 9/98) shall cease to be valid, except for the provisions from Article 44 to Article 125 of that Law which shall continue to apply until the day of entering into force, i.e. the date of application of the Law relating to the railway transport safety and Article 127 of that Law which shall continue to apply until the day of entering into force of the National Programme referred to in Article 48 of this Law.

### **Article 76**

- (1) The Government of Republic of Macedonia shall submit to the Assembly of the Republic of Macedonia a law on establishment of a regulatory body by 1 January 2009 at the latest.
- (2) Pending the adoption of a law on establishment of a regulatory body, the activities relating to the duties of the regulatory body referred to in Article 47 of this law will be performed by the Ministry of Transport and Communications.

### **Article 77**

This law shall enter into force on the eight day following that of its publication in the "Official Gazette of the Republic of Macedonia".