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RAILWAY SIDINGS AS AN IMPORTANT PART OF THE RAILWAY FREIGHT TRANSPORT COMPETITIVENESS AS WELL AS THE REALIZATION OF THE SUSTAINABLE TRANSPORT DEVELOPMENT POLICY IN POLAND

Abstract

The railway sidings handled by the freight transport are primordial operating points in relation to the freight transport as a whole. Every active railway siding constitutes a natural source for creation of a flow of loaded wagons where, in consequence, the transport becomes more frequent on the railway network and rare on the car one. The handled railway sidings influence the realization of the principles of the sustainable transport development policy. The number of the operated railway sidings measure, at the same time, the competitiveness of this transport branch in the Polish transportation system.

In the article, the legal regulations, the current situation as well as the issues in relation to the functioning of the railway sidings in Poland are exposed. The propositions to make the railway sidings participate actively in Polish railway freight transport are also listed. They are particularly significant for the national transportation system.

Keywords: railway transport, railway siding, sustainable transport development policy

JEL: R40, R42

Introduction

Liberalisation and the resulting competition in the rail freight market, which is one of the fundamental objectives of rail transport reform in the European Union, have created different operating conditions for users (customers) of this mode

of transport. This also applies to plants or companies with railway sidings serving their own purposes (for the transport of raw materials, semi-finished or finished products), i.e. according to the current legal regulations defined as private sidings.

The importance of railway sidings located on the premises of the plants for the volume of goods transport by rail cannot be overestimated. After all, every active siding is a natural source of load wagon streams, which in turn results in higher transport volumes on the railway network. Unfortunately, a decrease in the number of active sidings (especially those with small and medium wagon turnover) has been observed for years, which is connected with numerous problems related to their functioning.

The aim of the article is to discuss legal regulations concerning the functioning of railway sidings in Poland and to present basic problems related to their functioning. Solutions were also proposed to increase the number of active sidings on the railway network for the benefit of the national transport system and thus contribute to the implementation of the policy of sustainable transport development.

Law regulations related to the functioning of railway sidings

The definition of a railway siding changed together with the transformations of that railway branch. In the railway regulations dating from 1960 (Ustawa, 1960), the railway sidings were counted among the infrastructure of non-public utilities, however the definition of a railway siding had been mentioned only in the internal rules of PKP company. The railway siding was understood as a track or a group of tracks raised within the territory of a company providing the railway transport services. They were linked to a track of public utility located at a station or on a plain. As a result, there were two types of railway sidings- stationary and plain ones. The exploitation of a railway siding was internal which means that the loading and unloading of the wagons were done only by their owner (Zalewski, Siedlecki, Drewnowski, 2004, p. 53). Every railway siding was supervised taking into account the traffic, security, trainings and periodical instructions as well as the powers given to the employees by the Regional Management of National Rails.

In the law regulation from 1997, the notion of a railway siding was defined. It was understood as a side railroad together with adjacent belt of ground, buildings and devices signalizing traffic incorporated in the territory which is connected with a railway line and used by a supervisor for freight loading and unloading (Ustawa, 1997). The loading function of a railway siding was primordial and its functioning was managed by the PKP company.

New railway law regulations on transport dating from 2003 enlarged the range of the functioning of the railway sidings and it included the maintenance, the station of the railway vehicles, the transport and the join of the railway traffic flow. It took the authority over the railway sidings back from the infrastructure manager. In consequence, the railway sidings become autonomous. The users of the railway sidings were obliged to run safe business and obtain safety certificates of a railway siding. The legal institution was created called the Office of Rail Transport which took the authority over the railway sidings (Pilarczyk, Tomczak, 2018, p. 21). The last

ones weren't considered as railway infrastructure. The defined requirements and other rights weren't valid (e.g. the possibility of property tax exemption). The regulations related to rail accidents or the ones to make the infrastructure for rail transporters available weren't applied.

The fundamental change took place together with the amendment of the law on railway transport. The law from 16th November 2016 about the change of the law on the railway transport and other regulations (Ustawa, 2016) gave new light on the railway sidings. The implementation of the directive 2012/34/UE about the creation of homogenous railway territory was the main goal of the amendment (Dyrektywa, 2012). The railway sidings were considered as railway infrastructure. New scenarios of their functioning were introduced. New laws and obligations appeared for the users. Thanks to the granted status of the infrastructure manager, they obtained the right, under certain conditions, to be exempted from property tax and the charge for perpetual usufruct. The railway sidings aren't regulated by the laws about interoperability. The national management principles of exploitation were preserved. New obligations of sharing the railway sidings and those related to provide the information to the National Register of Railway Infrastructure appeared (Pilarczyk, Tomczak, 2018, p. 20). Every railway siding needs the safety certificate which proves the capacity of managing the railway traffic and carry out the railway transport. The lack of the certificate prevents the functioning of the railway siding and make it inactive. The safety certificate is issued to the user for 5 years. It may be prolonged for another 5 years on demand of a user. There is a fee up to 5500 EUR for issuing the certificate. It depends on the maintenance efforts of a demand. The obligation of sharing the utilities of the service infrastructure is to promote the access institution to the railway and service infrastructure. The applied change was to increase the access to the railway infrastructure and the concurrency of the railway transport. Taking into account the scenarios of the functioning of the railway sidings, the change in the law gave the right of functioning of the railway siding as:

- the private infrastructure;
- the infrastructure shared to the interested railway transporters;
- the facility of the service infrastructure (the exploitation of the railway siding to provide services).

In the case of the shared infrastructure or the facilities of the service infrastructure, the managers share their exploitation basing on the unrestricted principles to interested subjects. It is determined in the terms of use and so called network status and the price list attested by the Office of Rail Transport.

The private infrastructure is exclusively used for realization of the needs of its owner or its manager. The majority of the railway siding services are provided within the private infrastructure. The private siding is only shared to the transporters who provides the transport only for the needs of the owner or the manager of the railway siding. The transporter can also play a role of the manager of the private railway siding. According to the interpretation of the Office of Rail Transport, the properties included in private railway siding are exempted from tax (Wilde, Wankiewicz, Siczkowski, 2016, p. 25). It should be underlined that this type of company doesn't

collaborate only with one transporter as part of a railway siding because the last one can be exploited by many subjects.

The railway siding can have a co-user. The last one signs a contract for use of a railway siding. The contract should include mutual rights and obligations, the range of use, the way the user will exploit a railway siding (e.g. the loading of the wagons) and the salaries. The co-user of the railway siding must be also included in its work code (Pilarczyk, Tomczak, 2018, p. 24).

Issues related to functioning of the railway sidings versus the competitiveness of the railway transport

The notion of competitiveness can be understood as present or future position of competitiveness resulting from the actual competitiveness process or the capacity of competitiveness in the future (Rosa, 2013, p. 28). The competitiveness of the rails is influenced by the factors which can be divided into two groups: investment and off-investment. For the investment group, the construction, modernization, renovation of linear and point infrastructure as well as the investments in wagon rolling stock and traditional one are mostly counted. The most important off-investment factor influencing the competitiveness of the railway transport for the railway transporters is the price amount for the access to the railway infrastructure and its stability as well as the national transport policy in terms of the equalization of the conditions of the inter-branch competitiveness (Kowalczyk, 2018, p. 33).

The considerable progress in relation to the modernization of the linear infrastructure in railway transport over the last years can be observed. It's particularly thanks to the realization of EU funds dedicated to that project. Even if the process of the network modernization is projected for several years, the positive effects could be visible today. It's the increase of the technical speed on the chosen lines and at the same time the cut of the journey time of the passenger and cargo trains. It can't be forgotten that the rail transport process also includes the initial and final briefing apart from the phase of displacement and in many cases the indirect operations realized at the technical stations (shunting and camshaft stations). The transport process should be seen as a whole including also the loading and unloading points with the railway sidings.

The railway sidings are diversified in relation to the size and the equipment of the infrastructure. Smaller sidings with few meters long function as well as the sidings equipped with tracks that are 100 kilometers long. The last ones are practically freight stations apart. The railway siding should be equipped with railway traffic control devices as well as other infrastructure elements like rail transits, traction power network or the civil engineering works.

It could be stated that huge companies equipped with railway sidings and with significant wagons turnover benefited most from the liberalization and the competitiveness on the freight railway transport market.

All the freight transporters together with the PKP partnership CARGO joint stock company separated from the ancient integrated national company and other

transporters fight for the transport contracts for that type of customers. In the majority of the cases, expedition and reception on the railway sidings are done for blocks trains. They are characterized by the minimum of volume of maneuvering work which results in lower costs and higher profitability in comparison with other ways of transport. It's not surprising that all the freight transporters run after that type of orders and build the tight contact with that type of customer.

It looks different in case of the railway sidings with small and medium turnover generating mainly the transport of single wagons or small group of wagons in form of the dispersed transport. They are more expensive and require more complicated actions for realization of the railway transport process. The fierce competitiveness battle on the side of the car transport makes it diminish from year to year.

During the times of the governmental transformation in Poland, there were 3500 railway sidings. Nowadays, there are only 1300–1400 active railway sidings (Antonowicz, 2017). The majority of them were closed as a result of economic transformation of many companies equipped with railway sidings. In 1990, there was a significant reduction of active railway lines, particularly secondary and local ones where many railway sidings were located. The rapid development of road cargo and the economic transport were the main factors of the liquidation of many railway sidings with small and medium wagons turnover. The monitored focus on the massive transport diminished the importance of the dispersed transport which was more expensive and requiring more complicated logistic operations (Antonowicz, 2017).

Apart from the market questions, the main aspects that have influence on the development of the railway siding infrastructure for railway transport are financial. It means the costs of applying the proposed regulations in practice. They are related to new obligations imposed on managers (users) of the railway sidings and the maintenance and exploitation costs of those sidings. They are mainly the costs for issuing appropriate documents like authorization, certificate or the safety certificate.

The formal requirements for huge sidings with tracks tens of kilometers long are the same as the small ones. The acquirement of couple of certificates and authorizations indispensable for functioning of the railway siding is the arduous work. It requires the preparation of the documentation.

The reference document is the terms of use of the railway siding as well as the instructions defining the areas of activity of a railway siding e.g. the signalization, the maintenance of the tracks and the railway vehicles. The documents should be systematically updated because of the changes in law regulations. It requires the employment of people disposing of the specialized knowledge and the periodical audits done by the employees of the Office of Rail Transport. They provide security of functioning of a particular railway siding. All those formal activities require knowledge and engagement. They discourage the owners of small railway sidings from maintaining them. In many cases, it ends up with their liquidation. The contractors prefer to switch to road transport than to put effort to make a railway siding function (Piestrzyński, 2017).

The liquidation of a railway siding leads to permanent loss of a part of freight railway transport. The restoration of a railway siding is very rare. If the railway

siding is once closed, its reopening is practically impossible after some time. It would require too much costs and too many formal investment and approval actions. The closure and liquidation of the railway siding gets to immediate transfer to road freight. Growth of tens of millions tons of road freight is observed in consequence (Kowalczyk, 2018, p. 34).

In the latest White Book dating from 2011, there are clauses about the attempt to ensure the structured change indispensable to permit the effective competitiveness of the railway transport and the takeover of the majority of the freight transport for medium and long distance. All that requires the enlargement of the infrastructure (Biała Księga, 2011, p. 7). Undoubtedly, it as well concerns the loading infrastructure and the railway sidings. For the competitiveness of the railway transport, the functioning of the railway sidings with small and medium turnover is important because they are the source of slight freight streams transforming slowly into remarkable flows on main transport lines. The freight transport in Poland will be still disappearing without considerable number of medium and small railway sidings. In the same time, the road freight will continue to increase. This is obviously contrary to the EU transport policy.

Actions to increase the number of active railway sidings

The conclusion for the analysis previously done is that the questions of functioning and the places of railways sidings in the national transportation system should be solved by the system because the current regulations discourage from their use, maintenance or construction. It's particularly for the railway sidings with small and medium turnover. The railway sidings are eliminated at first place because of the economic reasons, particularly the maintenance costs and the necessity of meeting the demands of the Office of Rail Transport.

The actions need to be taken to increase the number of active private railway sidings on the network. They should regard law, organizational and economic aspects.

Discussing the question of necessary changes, the function of the railway sidings in the terms of analogical solutions for the road infrastructure should be taken into account. It could be stated that the municipal and district roads play a role of the railway sidings on the roads. Their network is very dense in contrary to the decreasing number of the railway sidings. They ensure the access to the regional, national roads and highways (corresponding to main, prime and secondary arteries in railway transport). The most important information is that the usage of the district and municipal roads is free. The maintenance as well as the reparation and modernization costs of municipal and district roads are financed entirely with the public funds (municipal ones). It could be stated that by analogy the usage of the railway sidings by the railway transporters should also be out of charge without taking into account their tenure. The maintenance, reparation and modernization costs of the railway sidings should be financed by public funds that means in the same way as in the case of the municipal and district roads (Kowalczyk, 2018, p. 36). The above proposal seems to be extreme. However,

it should be highlighted that only the crucial law change could stop the process of further liquidation of the railway sidings and in time their gradual restoration. It is worth discussing over this subject.

The essential change in decreasing the current costs of functioning of the railway siding was supported by the novelization of the law about the railway transport dating from 2016. According to the clauses of the directive 2012/34, the legislator defined the railway siding as part of the railway infrastructure. The user of the railway siding obtained the status of the manager of the infrastructure. The legislator brought also changes in the law about the tax and local fees. Due to this law, the ground, buildings and other structures belonging to the railway infrastructure are exempted from the land tax. Although the adopted regulations are evaluated positively in terms of intensifying the capacity of competitiveness of the railway transport, the interpretation aspects are doubtful. According to the Office of Rail Transport, the exemption is intended only for the shared infrastructure (the private railway sidings are excluded). In some cases, the court judgments addressed to the regional administrative courts by few users of the private railway sidings among others in Białystok, Gliwice, Kielce, Opole or Szczecin are contrary to the Office of Rail Transport (Zięba, 2018). There should be a precise mention that all the private railway sidings, regardless their character, are exempted from that tax. The situation shows also that the answer to the questions, at first, if regulations are unambiguous and sufficient to stop the liquidation process of the railway sidings and secondly if they will really influence the railway transport development, depends on the interpretation of the clauses and apparition or not of the additional acts which precise the adopted solutions (Antonowicz, 2017).

The organizational issues concerning obtaining the safety certificate and the care about the update and the integrity of the documentation are important aspects related to the functioning of the railway siding. With adoption of homogenous rules related to the technical aspects of functioning of the railway sidings without knowledge and comprehension of the railway questions in this matter, the requirements for all railway sidings are similar without distinction of the size and volume of the turnover. The ownership of the small track system together with indispensable railway traffic control devices and the maneuvering locomotive and few employees cause the necessity of creation of the integrate technical and work organizational documentation and obtaining the safety certificate or the certificates. Those requirements should be considered as the manifestation of overregulation. It's redundant in relation to the actual risk involving the functioning of the railway sidings with small and medium turnover.

In this case, the following solutions in terms of functioning of the railway sidings could be proposed:

- creation and introduction of the classification of the railway sidings depending on the service provided (or other additional criteria) and the kinds of overloaded freight to simplify at most the procedures related to the obtainment and the update of the safety certificate everywhere where the transshipment of the dangerous materials takes place and the probability of the dangerous incidents is little (particularly for the railway sidings with small turnover);

- introduction of homogenous and simplified (in form of template) organizational rules (e.g. terms of use) for the railway sidings requiring only minimal adaptation to the local work conditions on the small railway sidings.

The adopted changes in law regulations and administrative procedures should be reinforced by the financial questions for the companies which still would like to use, modernize old railways sidings or build new ones. The financial support is a must for the users of the private railway sidings. They could be financed by the EU funds as part of the financial perspective and created plans e.g. National Rail Program. Counting the railway sidings as a part of the infrastructure means that “The program of the railway infrastructure development” should be completed by the support program for modernization and development of the railway siding infrastructure. The creation of the national funds for modernization and construction of the railway sidings should be discussed. Similar solution has already been introduced for the road infrastructure with adoption of the law about the Municipal Roads Funds (Ustawa, 2018) which presumes financing the construction, the renovation or the repair of the municipal and district roads, bridge facilities that are on those roads by the specially established funds.

Conclusions

The considerations presented in the article on the functioning of the railway sidings in Poland lead to a conclusion that it is necessary to take actions to slow down their liquidation and the increase of the number of active railway sidings operating the freight railway transport. Gradual elimination from exploitation and liquidation of the railway sidings is the simplest way to limit the railway transport and immediately switch to road freight. The lack of the railway sidings located near the industries and companies signalize the inexistence of the freight railway transport. In this situation, the broadly adopted investment projects for railway routes, realized in the last years lose their economic goal. The actions with regulatory, organizational and financial aspects aiming at maintaining and increasing the number of the railway sidings (in particular with small turnover) must be taken. They are the natural place of emergence and disappearance of the freight streams generating then the freight flows on the main railway lines of freight railway transport. In that situation, the national transportation system is beneficial and the policy of equilibrated transport development is realized.

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