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PRINCIPLES OF CALCULATION OF TRACK ACCESS CHARGES IN RAIL FREIGHT TRANSPORT IN POLAND

Abstract

Non-discriminatory rules for access to the railway infrastructure as well as transparent pricing system are the essential factors of ensuring that the freight transport in Poland is competitive enough. Infrastructure managers pass some categories of their costs (e.g. for maintaining of railway infrastructure) on railway undertakings in the form of access charges verified and accepted by the Polish regulatory body. In general, approximately one – third of their costs shall be paid by railway undertakings. Given that access charges are treated as one of the most important factors for both railway undertakings and railway infrastructure managers. The aim of this article is to review the main principles of calculation of track access charges in rail freight transport in Poland. The article refers to the judgment of the Court of Justice, which stated that Poland failed to properly implement the direct cost principle in the meaning of directive 2001/14/EC. The direct costs principle expressed in article 7(3) of the Directive means that only the direct costs incurred as a result of operating the train services can be taken into account by the rail infrastructure manager when setting infrastructure access charges.

Keywords: access charges, railway infrastructure, rail freight transport

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Introduction

Historically, all rail services in Poland (including management of infrastructure and provision of railway transportation services) were rendered by a state enterprise – Polskie Koleje Państwowe. After Poland's accession to the EU the enterprise Polskie Koleje Państwowe was transformed according to the Act of 8 September 2000 on the commercialization and restructuring of the state-owned enterprise

“Polskie Koleje Państwowe” (OJ 2018 item 1311) into a joint stock company – Polskie Koleje Państwowe Spółka Akcyjna. The company Polskie Koleje Państwowe Spółka Akcyjna was separated into several subsidiary companies which were grouped according to the following categories:

- managing of tracks (PKP Polskie Linie Kolejowe Spółka Akcyjna), energy lines (PKP Energetyka Spółka Akcyjna) and telecommunication (Telekomunikacja Kolejowa spółka z ograniczoną odpowiedzialnością);
- providing transportation services (PKP Cargo Spółka Akcyjna, PKP Intercity Spółka Akcyjna, PKP Przewozy Regionalne spółka z ograniczoną odpowiedzialnością, PKP Linia Hutnicza Szerokotorowa spółka z ograniczoną odpowiedzialnością);
- other.

The main purpose of the reform was to introduce unbundling between infrastructure managing and providing of transportation services. The managing of the railway infrastructure was entrusted to PKP’s subsidiary – PKP Polskie Linie Kolejowe Spółka Akcyjna – which has a monopoly in this regard but is obliged to provide non-discriminatory and equal access to the managed railway infrastructure for all railway undertakings rendering rail transportation service. The company is obliged to apply principles of track access charges provided by law.

The process of liberalization of the railway sector was designed at EU level and set to implement a series of directives:

- the so-called “first railway package”¹;
- the so-called “second railway package”²;
- the so-called “third railway package”³;

¹ The “first railway package” comprises of Directive 2001/12/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 91/440/EEC on the development of the Community’s railways (OJ L 75, 15.3.2001); Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings (OJ L 75, 15.3.2001); Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 75, 15.3.2001), https://ec.europa.eu/transport/modes/rail/packages/2001_en.

² The “second railway package” comprises of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community’s railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 164, 30.4.2004); Directive 2004/50/EC of the European Parliament and of the Council of 29 April 2004 amending Council Directive 96/48/EC on the interoperability of the trans-European high-speed rail system and Directive 2001/16/EC of the European Parliament and of the Council on the interoperability of the trans-European conventional rail system (OJ L 164, 30.4.2004); Directive 2004/51/EC of the European Parliament and of the Council of 29 April 2004 amending Council Directive 91/440/EEC on the development of the Community’s railways (OJ L 164, 30.4.2004); Regulation (EC) No 881/2004 of the European Parliament and of the Council of 29 April 2004 establishing a European Railway Agency (OJ L 164, 30.4.2004), https://ec.europa.eu/transport/modes/rail/packages/2004_en.

³ The “third railway package” comprises of Directive 2007/58/EC of the European Parliament and of the Council of 23 October 2007 amending Council Directive 91/440/EEC on the development of the Community’s railways and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure (OJ L 315, 3.12.2007); Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community

- the so-called “fourth railway package”⁴;
- the so-called “Recast of the first railway package”⁵.

Among other things, the directives obliged the Member States to ensure that railway infrastructure management and provision of access to this infrastructure

(OJ L 315, 3.12.2007); Regulation (EC) No 1370/2007 of the European Parliament and of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007); Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers’ rights and obligations (OJ L 315, 3.12.2007); Regulation (EC) No 1372/2007 of the European Parliament and of the Council of 23 October 2007 amending Council Regulation (EC) No 577/98 on the organisation of a labour force sample survey in the Community (OJ L 315, 3.12.2007), https://ec.europa.eu/transport/modes/rail/packages/2007_en.

⁴ The “fourth railway package” comprises of Regulation (EC) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016); Directive (EC) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016); Directive (EC) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety (Recast of Directive 2004/49/EC, OJ L 138, 26.5.2016); Regulation (EC) 2016/2338 of the European Parliament and of the Council of 14 December 2016 amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail (OJ L 354, 23.12.2016); Directive 2016/2370/EC of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (OJ L 352, 23.12.2016); Regulation (EC) 2016/2337 of the European Parliament and of the Council of 14 December 2016 repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings (OJ L 354, 23.12.2016), https://ec.europa.eu/transport/modes/rail/packages/2013_en.

⁵ The “recast of first railway package” comprises of Directive 2012/34/EC of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012); Commission Implementing Regulation (EC) 2017/2177 of 22 November 2017 on access to service facilities and rail-related services (OJ L 307, 23.11.2017); Commission Delegated Decision (EC) 2017/2075 of 4 September 2017 replacing Annex VII to Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area (OJ L 295, 14.11.2017); Commission Implementing Regulation (EC) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity (OJ L 94, 8.4.2016); Commission Implementing Regulation (EC) 2015/1100 of 7 July 2015 on the reporting obligations of the Member States in the framework of rail market monitoring (OJ L 181, 9.7.2015); Commission Implementing Decision (EC) 2015/1111 of 7 July 2015 on the compliance of the joint proposal submitted by the Member States concerned for the extension of the North Sea-Baltic rail freight corridor with Article 5 of Regulation (EU) No 913/2010 of the European Parliament and of the Council concerning a European rail network for competitive freight (OJ L 181, 9.7.2015); Commission Implementing Regulation (EC) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (OJ L 148, 13.6.2015); Commission Implementing Regulation (EC) 2015/429 of 13 March 2015 setting out the modalities to be followed for the application of the charging for the cost of noise effects (OJ L 70, 14.3.2015); Commission Implementing Decision of 20.2.2015 on the strategic importance of local railway infrastructure pursuant to Article 2(4) of Directive 2012/34/EU [C(2015)857]; Commission Implementing Regulation (EC) 2015/171 of 4 February 2015 on certain aspects of the procedure of licensing railway undertakings (OJ L 29, 5.2.2015); Commission Implementing Regulation (EC) 2015/10 of 6 January 2015 on criteria for applicants for rail infrastructure capacity and repealing Implementing Regulation (EU) No 870/2014 (OJ L 3, 7.1.2015); Commission Implementing Regulation (EC) No 869/2014 of 11 August 2014 on new rail passenger services (OJ L 239, 12.8.2014); Commission Implementing Decision of 18/07/2013 on the non-application of certain provisions of the Decree of the Kingdom of Netherlands of 8 June 2012 establishing detailed rules with regard to the liberalisation of international rail passenger transport (“Liberalisation Directive Decree”) [C92013)4474], https://ec.europa.eu/transport/modes/rail/packages/2008_en.

would be entrusted to an independent entity and realized in a non-discriminatory manner in exchange for access charges calculated according to certain legally prescribed rules (the so-called “unbundling”). Member States were obliged to ensure that the essential functions determining equitable and non-discriminatory access to infrastructure, will be entrusted to bodies or firms that do not themselves provide any rail transport services. Where the infrastructure manager, in its legal form, organisation or decision-making functions, is not independent of any railway undertaking, the managing functions shall be performed respectively by a charging body and by an allocation body that are independent in their legal form, organisation and decision-making from any railway undertaking.

The Member States were also obliged to adopt incentive measures which would encourage infrastructure managers to increase efficiency and thereby decrease costs and charges levied. Infrastructure managers shall, with due regard to safety and to maintaining and improving the quality of the infrastructure service, be given incentives to reduce the costs of providing infrastructure and the level of access charges.

1. Development of principles of track access charges in Poland

In 2006, the Commission issued a report on the implementation of the directives dealing with the liberalization of the railway sector (the so-called “first railway package”). The report stated that the implementation by the Member States was well under way but more had to be done with regard to several aspects, inter alia, in the area of proper setting of infrastructure access charges. After several further reports, in 2008 and 2009 the Commission sent letters of formal notice to 21 Member States and reasoned opinions to 21 of them in relation to incorrect transposition of the first railway package directives.

This was subsequently debated in the European Parliament. On 17 June 2010, the European Parliament passed a resolution (European Parliament resolution of 17 June 2010 on the Implementation of the first railway package Directives (2001/12/EC, 2001/13/EC and 2001/14/EC) 2010) urging the Commission to take immediate legal actions to ensure full implementation. As a result, on 24 June 2010, the Commission decided to refer 13 Member States to the Court of Justice of the European Union (Austria, the Czech Republic, Germany, Greece, France, Hungary, Ireland, Italy, Luxembourg, Poland, Portugal, Slovenia and Spain). The Court of Justice subsequently found Poland (C-512/10), Slovenia (C-627/10) and Hungary (C-473/10) to be in breach of the same two obligations envisaged in the Directive. They failed to provide incentives for infrastructure managers to reduce costs and access charges levied from the operators and did not ensure that the access charges are based only on costs directly incurred as a result of operating the train service. Czech Republic was found in breach of only one of these obligations – it failed to provide incentives for the infrastructure managers to reduce the costs and the charges (C-545/10). Other Member States were either charged with other infringements or similar charges against them were dismissed by the Court of Justice.

Article 7(3) of Directive 2001/14/EC provides that the charges for the minimum access package and track access to service facilities shall be set at the cost that is directly incurred as a result of operating the train service. In order to obtain full recovery of the costs incurred by the infrastructure manager a Member State may, if the market can bear this, levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, while guaranteeing optimum competitiveness in particular of international rail freight. The charging system shall respect the productivity increases achieved by railway undertakings (Article 8(1)). According to Article 6(2) infrastructure managers shall, with due regard to safety and to maintaining and improving the quality of the infrastructure service, be provided with incentives to reduce the costs of provision of infrastructure and the level of access charges.

Since Poland's accession to the European Union, charges for minimal access package and track access to service facilities were regulated by the Act on rail transport of 28 March 2003 (OJ 2007 item 94) and by the following three subsequent Regulations:

- Regulation of the Minister of Infrastructure on conditions of access and use of railway infrastructure of 7 April 2004 (OJ 83, item 768);
- Regulation of the Minister of Transport on conditions of access and use of railway infrastructure of 30 May 2006 (OJ 107, item 737);
- Regulation of the Minister of Infrastructure on conditions of access and use of railway infrastructure of 29 February 2009 (OJ 35, item 274).

Article 33(2) of the Law on rail transport stated that the basic charge for the use of railway infrastructure shall be set taking into account the cost directly incurred by the manager as a result of operating the train service. The basic charge for minimum access to railway infrastructure shall be calculated as the product of train runs and the unit rates set according to the category of railway line and type of train, such charge to be calculated separately for passenger transport and freight.

Moreover, each of the regulations mentioned above set different formula for calculation of track access charges. In Regulation of 7 April 2004 access charges were calculated based on costs:

- variable costs for each train-kilometre;
- fixed costs for each train-kilometre including:
 - a) depreciation,
 - b) costs of railways current maintenance,
 - c) costs of traffic steering,
- common costs and
- profit margin.

In Regulation of 30 May 2006 access charges were calculated based on costs:

- variable costs for each train-kilometre,
- fixed costs for each train-kilometre including:
 - a) depreciation,
 - b) costs of railways current maintenance,
 - c) costs of traffic steering,
- debt service costs,
- repair-maintenance mark-up and
- profit margin not-exceeding 10%.

The Regulation of 29 February 2009 access charges were calculated based on costs:

- direct costs consisting of:
 - a) maintenance costs,
 - b) rail traffic steering costs and
 - c) depreciation,
- indirect costs,
- financial costs,
- operation work established separately for passenger and goods trains and
- profit margin not exceeding 10%.

On 30 May 2013 the Court of Justice issued a judgment declaring that the Republic of Poland had failed to fulfil its obligations under Articles 6(2) and 7(3)⁶ of Directive 2001/14/EC. The Judgment explicitly related to the Regulation of 29 February 2009 which was in force when the Commission issued its reasoned opinion⁷.

2. ECJ Judgment of 30 May 2013

In judgment C-512/10 of 30 May 2013 the Court of Justice found that Poland had failed in its legal duty to duly implement article 7(3) of the Directive (Judgment of the Court of Justice (First Chamber) of 30 May 2013, *European Commission v Republic of Poland*, C-512/10). The Court of Justice reached this conclusion because Poland had issued legislation which permitted costs other than direct costs within the meaning of article 7(3) of the Directive to be included in the access fee calculation. This was inconsistent with the direct costs principle that Poland had adopted in the Act on rail transport of 28 March 2003 (Gołąb, 2013; Skoczny, 2013). The issuance by the Court of Justice the judgment against the Republic of Poland may not lead to the automatic invalidity of the Polish laws. However, since all domestic bodies are obliged to ensure full efficiency to the judgment it must be assumed that all bodies are obliged to apply the pro-EU interpretation of the laws which were considered as being against the Directive and should such a situation not be possible they are obliged to “cease to apply” the domestic laws which were considered as being against the Directive 2001/14. A Member State has to undertake all other measures indispensable for ensuring full efficiency to the EU laws (Opinion concerning determination of judgement effect – C-512/10 of the European

⁶ J. Engelhardt wrote that in general it can be stated that the following elements are the subject of criticism of the current system of calculation of access charges: (i) improper implementation of EU directives, (ii) incorrect costs categories taken into account during calculation of access charges indicated in the Regulation of 29 February 2009, (iii) indirect costs shall not be included in unit rates for access to the railway infrastructure, (iv) profit margin costs shall not be included in unit rates for access to the railway infrastructure (Engelhardt, 2013).

⁷ According to Article 258 of the Treaty on the functioning of the European Union (OJ C 326, 26.10.2012) if the Commission considers that a Member State has failed to fulfil an obligation under the Treaties, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union.

Commission against the Republic of Poland for proceedings on approving of rates by the President of Urząd Transport Kolejowego [the Polish Office of Rail Transportation], 2013). The Court of Justice held that, pursuant to article 7(3) of the Directive, the charges for the minimum access package and track access to service facilities in Poland should be set at the cost that is directly incurred as a result of operating the train service. Poland was obliged to properly implement this so-called direct costs principle no later than by 1 May 2004, i.e. by the time Poland joined the European Union. However, as stated in the Judgement the Republic of Poland did not make use of this possibility.

Although Poland adopted the direct costs principle, other costs were also included in the calculation of unit rates (Nash, 2005, p. 269). Since the definition of direct costs has been introduced to the Act on rail transport of 28 March 2003, it was not compliant with article 7(3) of the Directive. An analysis of both the Act on rail transport of 28 March 2003 and the Regulations of 2004, 2006 and 2009 shows that Poland systematically failed to properly implement article 7(3) of the Directive.

In the Judgment the Court of Justice confirmed, that Poland had failed to properly implement this principle within the meaning of the Directive. The direct costs principle expressed in article 7(3) of the Directive means that only the direct costs incurred as a result of operating the train services can be taken into account by the rail infrastructure manager when setting infrastructure access charges. The Republic of Poland had failed to define the costs directly incurred in line with the Directive, which the Court of Justice pointed out.

The Court of Justice stated that:

- as the calculation is based on the fixed costs relating to the provision of a stretch of line on the rail network which the manager must bear even in the absence of train movements, the maintenance and traffic management costs referred to in the Regulation of 2009 must be considered to be only partially directly incurred as a result of operating the train service⁸;
- as regards indirect costs and financial costs, also mentioned in the national provision, it is clear that they do not have a direct link with the operation of the train service⁹;
- since it is determined, not on the basis of the actual wear of the infrastructure attributable to traffic, but with reference to accounting rules, depreciation cannot be viewed as being directly incurred as a result of operating the train service¹⁰.

Therefore, the categories of costs indicated in the Regulation of 2009 covered many categories of costs that could have been isolated by the infrastructure manager and incurred, but which cannot be treated as direct costs within the meaning of article 7(3) of the Directive and the direct cost principle laid down in this regulation. Contrary to the direct costs principle adopted in the Act on rail transport of 28 March 2003, the Regulation of 2009 incorrectly set the catalogue

⁸ See point 82, Judgment of the Court of Justice (First Chamber) of 30 May 2013, *European Commission v Republic of Poland*, C-512/10.

⁹ See point 83, Judgment of the Court of Justice (First Chamber) of 30 May 2013, *European Commission v Republic of Poland*, C-512/10.

¹⁰ See point 84, Judgment of the Court of Justice (First Chamber) of 30 May 2013, *European Commission v Republic of Poland*, C-512/10.

of costs taken into account when calculating unit rates as they covered e.g. financial costs, depreciation, indirect costs and at least part of maintenance and traffic management costs.

3. Principles of calculation of track access charges in freight transport

From the case C-512/10 follow conclusions that the methodology for the calculation of direct costs may not include any cost categories which are not linked to the train service, such as financial costs (depreciation), overhead costs (including most of the staff costs) etc. and for cost categories which are liable to be recovered, at least in principle, such as signalling, traffic management, maintenance and repairs, only those parts of these costs can be recovered which depend on the traffic.

The infrastructure managers should have the opportunity to develop a market-oriented charging scheme. The Directive 2012/34/EC complies with this requirement and stipulates that charges should be at least set at the cost that is directly incurred as a result of operating the train service (Article 31(3)). The Member State may allow the infrastructure manager to recover the costs arising from providing the obligatory services (full costs) including a rate of return customary in the market, if the market can bear this (Article 32 (1)). In Poland the methodology of access fee calculation is determined on the basis of the following laws:

- Railway Transport Act, 28 March 2003, amended 16 November 2016 (OJ 2017 item 2117);
- Regulation of the Minister for Infrastructure and Construction, 7 April 2017, on access to railway infrastructure (OJ 2017 item 755).

In general, approximately one – third (Wheat, Smith, Nash 2009) of the infrastructure manager's costs shall be paid by railway undertakings.



Figure 1. Percentage of infrastructure manager's costs covered by railway undertakings
Source: (Wolański, 2006)

The calculation of charges for the minimum access package takes into account the part of the costs which is directly incurred as a result of operating the train service, in particular the part of the costs of:

- maintenance and renewal;
- rail traffic management;
- depreciation, if it is determined on the basis of the actual wear of the infrastructure attributable to traffic.

This means that the calculation of charges for the minimum access package does not include costs which are not directly incurred as a result of operating the train service, in particular:

- fixed costs relating to the provision of a stretch of line which the infrastructure manager must bear even in the absence of train movements;
- costs that do not relate to payments made by the infrastructure manager. Costs or cost centres that are not directly linked to the provision of the minimum access package or to access to infrastructure connecting service facilities;
- costs of acquisition, selling, dismantling, decontamination, recultivation or renting of land or other fixed assets;
- network-wide overhead costs, including overhead salaries and pensions;
- financing costs;
- costs related to technological progress or obsolescence;
- costs of intangible assets;
- costs of track-side sensors, track-side communication equipment and signalling equipment if not directly incurred by operation of the train service;
- costs of information, non-track side located communication equipment or telecommunication equipment;
- costs related to individual incidences of force majeure, accidents and service disruptions without prejudice to Article 35 of Directive 2012/34/EU;
- costs of electric supply equipment for traction current if not directly incurred by operation of the train service. Direct costs of operation of the train services that do not use electric supply equipment shall not include costs of using the electric supply equipment;
- costs related to the provision of information mentioned under item 1(f) of Annex II to Directive 2012/34/EU, unless incurred by operation of the train service;
- administrative costs incurred by schemes of differentiated charges referred to in Articles 31(5) and 32(4) of Directive 2012/34/EU;
- depreciation which is not determined on the basis of real wear and tear of infrastructure due to the train service operation;
- the part of the costs of maintenance and renewal of civil infrastructure that is not directly incurred by operation of the train service.

Charges depend on train-km and they are differentiated on the basis of different line categories and weight categories of trains. The line categories are determined on the basis of axle load limits and speed limits.

The infrastructure manager can levy higher charges, if the market can bear it i.e. in the case it has been established that the increased charge does not result in a shift to road transport. The infrastructure manager undertakes 'market can bear tests' no less than once every three years, taking into account the division of the market into at least

the pairs of types of services (e.g. passenger services/freight services; regional passenger service/ sub-regional passenger services; combined transport / direct trains etc.).

The national infrastructure manager concludes a 5-year Framework Contract which was signed in December 2018 between the State and PKP PLK. Under this contract, the State's main obligation is to finance the management of the infrastructures while the national infrastructure manager is obliged to meet user-oriented performance targets, in the form of indicators and quality criteria covering elements such as train performance, network capacity, asset management, activity volumes etc. The contract also sets financial efficiency objectives for infrastructure manager in the form of revenue and expenditure indicators.

There is one regulatory body involved in the review of access charging. The regulatory body carries out an *ex ante* review of the methodology of charges calculation and of cost assessment (Updated review of charging practices for the minimum access package in Europe 2018: 27).

Conclusions

Future's track access charges must be line-specific and vehicle-specific to be in line with the goals of European transport policy. The effects shown on the track part of direct costs are basically true also for the costs of catenary and civil engineering structures. There are already infrastructure managers making partly use of these ideas (Marschnig, 2016).

Some inadequacies by charges calculating have been removed before the Court of Justice issuing the judgments, while others remain to be eliminated in the future. This however will only align national law with the current UE law in the field and will not yet result in a fully integrated UE railway market (Hojnik, 2016).

References

- Act of 8 September 2000 on the commercialization and restructuring of the state-owned enterprise "Polskie Koleje Państwowe" (OJ 2018, item 1311).
- Commission Implementing Regulation (EC) 2015/909 of 12 June 2015 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (OJ L 148, 13.6.2015) https://ec.europa.eu/transport/modes/rail/packages/2008_en [Accessed 17 March 2019].
- Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 75, 15.3.2001), https://ec.europa.eu/transport/modes/rail/packages/2001_en [Accessed 17 March 2019].
- Directive 2012/34/EC of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ L 343, 14.12.2012)
- Engelhardt, J. (2013), Problemy metodyczne kalkulacji stawek dostępu do infrastruktury kolejowej, *Technika Transportu Szynowego*, 20(4).
- European Parliament resolution of 17 June 2010 on the Implementation of the first railway package Directives (2001/12/EC, 2001/13/EC and 2001/14/EC), 2010, <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2010-0240&language=EN&ring=B7-2010-0344>, [Accessed 17 March 2019].

- Gołąb, Ł. (2013), Sektor transportu kolejowego w orzecznictwie Trybunału Sprawiedliwości Unii Europejskiej, *Kwartalnik Antymonopolowy i Regulacyjny*, 4(2), www.ikar.wz.ew.edu.pl [Accessed 17 March 2019].
- Hojnik, J. (2016), *Legal challenges of the railway liberalisation in the UE*, https://www.researchgate.net/publication/300229565_Legal_Challenges_of_the_Railway_Liberalisation_in_the_EU [Accessed 17 March 2019].
- Judgment of the Court of Justice (First Chamber) of 30 May 2013, European Commission v Republic of Poland, C-512/10, <http://curia.europa.eu/juris/liste.jsf?num=C-512/10&language=EN>, [Accessed 17 March 2019].
- Marschnig, S. (2016), *Innovative track access charges*, https://www.researchgate.net/publication/304530182_Innovative_Track_Access_Charges [Accessed 17 March 2019].
- Nash, C.A. (2005), Rail Infrastructure Charges In Europe, *Journal of Transport Economics and Policy*, 39, part 3, http://eprints.whiterose.ac.uk/2032/1/ITS165_WP2032_uploadable.pdf [Accessed 17 March 2019].
- Opinion concerning determination of judgement effect – C-512/10 of the European Commission against the Republic of Poland for proceedings on approving of rates by the President of Urząd Transportu Kolejowego [the Polish Office of Rail Transportation], <https://www.cars.wz.uw.edu.pl/tresc/doradztwo/09/Opinia.pdf> [Accessed 17 March 2019].
- Railway Transport Act, 28 March 2003, amended 16 November 2016 (OJ 2017, item 2117).
- Regulation of the Minister for Infrastructure and Construction, 7 April 2017, on access to railway infrastructure (OJ 2017, item 755).
- Regulation of the Minister of Infrastructure on conditions of access and use of railway infrastructure of 29 February 2009 (OJ 35, item 274).
- Regulation of the Minister of Infrastructure on conditions of access and use of railway infrastructure of 7 April 2004 (OJ 83, item 768).
- Regulation of the Minister of Transport on conditions of access and use of railway infrastructure of 30 May 2006 (OJ 107, item 737).
- Skoczny, T. (2013), Polska uchybiła dwóm zobowiązaniom wynikającym z prawa UE w dziedzinie transportu kolejowego. Wyrok Trybunału Sprawiedliwości UE z 30.05.2013 r. w sprawie C-512/10 Komisja v. Polska, *Kwartalnik Antymonopolowy i Regulacyjny*, 4(2), www.ikar.wz.ew.edu.pl [Accessed 17 March 2019].
- Updated review of charging practices for the minimum access package in Europe (2018), *IRG-Rail* (18)10, p. 27, [https://www.google.com/search?q=Updated+review+of+charging+practices+for+the+minimum+access+package+in+Europe%2C+IRG-Rail+\(18\)10%2C+2018%2C+s.+27.&rlz=1C1GCEB_enDE819DE819&oq=Updated+review+of+charging+practices+for+the+minimum+access+package+in+Europe%2C+IRG-Rail+\(18\)10%2C+2018%2C+s.+27.&aqs=chrome..69i57.514j0j4&sourceid=chrome&ie=UTF-8](https://www.google.com/search?q=Updated+review+of+charging+practices+for+the+minimum+access+package+in+Europe%2C+IRG-Rail+(18)10%2C+2018%2C+s.+27.&rlz=1C1GCEB_enDE819DE819&oq=Updated+review+of+charging+practices+for+the+minimum+access+package+in+Europe%2C+IRG-Rail+(18)10%2C+2018%2C+s.+27.&aqs=chrome..69i57.514j0j4&sourceid=chrome&ie=UTF-8) [Accessed 17 March 2019].
- Wheat, P., Smith, A., Nash, C. (2009), *Catrin, Cost allocation of transport infrastructure cost*, <https://trimis.ec.europa.eu/project/cost-allocation-transport-infrastructure-cost> [Accessed 17 March 2019].
- Wolański, M., opinia z dnia 7 sierpnia 2013 roku, *Ocena skutków rządowego projektu ustawy o zmianie ustawy o komercjalizacji, restrukturyzacji i prywatyzacji przedsiębiorstwa państwowego „Polskie Koleje Państwowe”, ustawy – Prawo upadłościowe i naprawcze oraz ustawy o transporcie kolejowym (druk nr 1435)*, <http://orka.sejm.gov.pl/rexdomk7.nsf/Opdodr?OpenPage&nr=1435> [Accessed 17 March 2019].

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