

# Law on the Railway System

## I. GENERAL PROVISIONS

### Article 1

This Law shall regulate the development of the railway traffic and the railway infrastructure, the organization of the railway system, the method and conditions for performance of the railway transport and the types of transport, the management, organization, protection of the railway infrastructure and the access to the railway infrastructure, the collection of the track access charge, assignment of the infrastructure capacities, the network statement, establishment of the independent and autonomous regulatory body, granting and types of concessions, financing of the railway infrastructure and the services of public interest in the railway passenger transport.

### Definitions

#### Article 2

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

1. "Applicant" shall be a railway carrier and/or international group of railway carriers that hold a license and certificate for safety of public railway transport, as well as other legal entities performing a public service or that have a commercial interest in using the infrastructure capacity and transporters, forwarding agents and operators of combined transport for performance of a railway service;
2. "Shunting vehicle" is railway vehicle with its own propulsion (diesel locomotives, electrical locomotives, steam locomotives, motor cars and motor vehicles for special purposes);
3. "Shunted vehicle" is railway vehicle for transportation of passengers, luggage or goods (passenger, freight cars, trailers);
4. "Domestic public transport" is a transport performed on the territory of the Republic of Macedonia;
5. "Train" is properly composed and connected line of railway passenger and/or freight cars with one shunting vehicle or with several shunting vehicles with its own propulsion, only shunting vehicle with its own propulsion and only motor cars;
6. "Railroad air space" is the space above the railroad area in height of 12 m, and in crossings with long distance power lines exceeding 220 kV, 14 m, measured from the upper edge of the rail;
7. "Timetable" is an act of the manager of the railway infrastructure which determines the planned traffic of the trains for public passenger and freight transportation as well as the transportation for own needs in the period of validity of the timetable;
8. "Main railroads" are the railroads which are distributed in the international railway network of European railroads or railroads where more than 30,000 trains pass each year;
9. "Public services contract" is one or several binding acts that confirm the mutual consent between the competent authority and the entity which is entrusted with public services for public passenger transport. The public services contract may be signed based on a decision issued by a competent authority.
10. "Public railway transport license" is a public document, issued by a competent authority, with which the legal entity is recognized the status of railway carrier, which may be limited to provision of certain types of services;

11. "License for management of railway infrastructure" is a public document issued by a competent authority with which the legal entity is entrusted with the management of the railway infrastructure;
12. "Other railroads" are the railroads which are not included in the main railroads network;
13. "Railway carrier" is public or private, domestic or foreign legal entity which holds a license and certificate for safety of public railway transport, with main occupation of providing passenger and/or freight railway transport services if the carrier provides the shunting vehicle; including carriers that provide only shunting;
14. "Railway system" is a system consisting of railway infrastructures consisted of railroads, structures and installations of the railway system, as well as the railway vehicles of all categories and origin commuting on that infrastructure;
15. "Railway transport" is an activity which includes passenger and/or freight transport and/or shunting of vehicles;
16. "Railway infrastructure" is a unique technical and technological system of railroads with substructure and superstructure, gages, switching stations, railroad facilities, railway stations, electric train shunting facilities, signaling and safety systems, communication and information systems in the railway traffic, buildings, depots and other construction structures at the railway stations which are in function of organizing, regulating of the railway traffic and maintenance of the infrastructure, land which functionally belongs to the railroad, the official places and facilities;
17. "Railroad" is a land rail way on which railway vehicles commute;
18. "Railway station" is official spot on the railroad from where the traffic of opposite and following trains is regulated, and where the passengers get in and out of the train and the goods are loaded and unloaded;
19. "Railroad area" is earth area on the both sides of the body of the railroad, determined in the investment and technical documentation. The least width of the railroad area is 1.0 m on the both sides of the earth body of the railroad;
20. "Railway network" is the complete railway infrastructure managed by the infrastructure manager;
21. "Railway vehicle" is a vehicle for movement on its own wheels on railroads, with or without shunting. The vehicle consists of one or several structural and functional subsystems or parts of such subsystems.
22. "Protection area of a railroad" is earth area on the both sides of the railroad, 200 m wide, measured from the ends of railroad area;
23. "Saturated infrastructure" is a part of the infrastructure where the need for infrastructure capacity cannot be completely met in certain time period even after coordination with the various capacity applicants;
24. "Infrastructure capacity" is the total number of routes of trains, enabled by the manager of the railway infrastructure, used based on a timetable;
25. "Industrial railway" are railway used by the legal entity in the field of traffic, industry, mining, forestry and other fields of economy to transport passengers and goods for its own needs;
26. "Industrial gage" is railway gage that is connected to railroad and serves for shipment of goods for the owner i.e. holder of the right of use for that gage;
27. "Public transport" is transportation of persons and/or goods available to anyone under same conditions that is performed upon agreement between the carrier and the user of the services;

28. "Public passenger transport" is a transport of passengers of general economic interest available to the public in a nondiscriminatory and contractual basis;
29. "Combined transport" is a transport with two or several types of transport in order to provide a complete transport service ("door to door");
30. "Coordination" is a process with which the manager of the infrastructure and the applicants are trying to resolve the problems which are conflict for granting infrastructure capacity;
31. "Crossroad" is traffic spot on the railroad from where the traffic of opposite and following trains may be regulated, and where the passengers can get in and out of the train;
32. "Weight of the vehicle per longitudinal meter" is the weight of the empty or loaded railway vehicle divided with the length of the vehicle in meters, measures from the front to the front of the uncompressed bumpers i.e. automatic junctions, expressed in kN per longitudinal meter;
33. "Manipulation railroad" is part of the railway infrastructure which is used for transportation of goods without determined timetable;
34. "Network publication" is a detailed presentation of the available railway infrastructure for applicants, which includes general rules, deadlines, procedures and criteria regarding the collection and granting of the infrastructure capacities as well as other information on the conditions for access to the railway infrastructure;
35. "Approval for safety for management of the railway infrastructure" is a document issued to the infrastructure manager by the Administration for safety of the railway system, according to this Law;
36. "Maintenance of the railway infrastructure" is a composition of all activities of current and investment maintenance of the railway infrastructure;
37. "Axial load" is the weight of empty or loaded railway vehicle expressed in kN divided with the number of axes of the vehicle;
38. "Safety authority" is the Administration for safety of the railway system, as an authority within the Ministry of Transport and Communications which is entrusted with the tasks connected with the railway safety, according to the Law in order to provide for unified safety regime for specialized cross-border infrastructures;
39. "Road crossing" is place of crossing of the railroad with road on the same level;
40. "Pedestrian crossing" is place of crossing of the railroad with pedestrian crossing on same level;
41. "Plan for strengthening of the infrastructure capacities" is a measure or serious of measures with a schedule for facilitation of the limiting infrastructure capacities which lead to appointing of that part of the infrastructure as saturated infrastructure;
42. "Transportation for own needs" is the transportation of persons and/or goods that is performed by the carriers or other legal entities which own railway means of transportation for their own needs;
43. "Framework agreement" is an agreement signed based on this or other Law which regulated the rights and obligations of the applicant and the manager of the infrastructure regarding the infrastructure capacities which should be allocated and the compensation for access to the railway infrastructure that needs to be paid within the agreed time period longer than the validity period of an annual timetable;
44. "Allocation" is the distribution of the railway infrastructure capacities by the infrastructure manager;

45. "Reconstruction of railroad, railroad structure, plant and devices on railway vehicle" is change that changes the basic technical and construction characteristics;
46. "Overhaul of a railroad" means complete change of the superstructure of the railroad (rails, gage equipment, slippers, switches, sifting and filling of the curtain), restoration of the substructure and other activities on the existing railroads;
47. "Official spots on railroad" are the spots for regulation of the railway traffic (railway stations, crossroads, traffic shipment yards, loading yards, places for passing from two gage on one gage railroad and standings);
48. "Communication system" is composition of telecommunication structures or technical equipment that are interconnected in a way that makes technological whole and are used for transfer, giving and receiving messages;
49. "Free profile of the railroad" is reduced space in cross section normal to the mid of the gage. The axis of the free profile stands perpendicularly to the straight line that touches the upper edge of the rails and passes through the middle of the gage i.e. in the middle of the distance between the rails;
50. "Certificate for safety of public railway transport" is a public document issued to a railway carrier by the Administration for safety of the railway system, according to this Law;
51. "Technical specifications for interoperability" are specification which include any subsystem or part of a subsystem in order to fulfill the basic requirements and provide interoperability of the railway system;
52. "Transit" is passing through the territory of the Republic of Macedonia realized without loading or unloading of goods and/or without entering or exiting of passengers on the territory of the Republic of Macedonia;
53. "Route" is a part of an infrastructure capacity necessary for commuting of a train between two places in a given time period;
54. "Manager of a railway infrastructure" is a public or private, domestic or foreign legal entity which is responsible for installation, maintenance and management of the railway infrastructure, including the regulation of the railway traffic and own safety system. The function of the railway infrastructure manager of a network or part of a network may be granted to various managers;
55. "International passenger transport" is a service of passenger transport when the train crosses at least one country border and when the main purpose of the service is to transport the passengers between stations located in different countries when the train may be integrated or divided and the different parts may have different departing or arrival destinations, under condition that all shunted vehicles pass at least one border;
56. "International freight transport" is a service of transport of goods when the train crosses at least one country border when the train may be integrated or divided and the different parts may have different departing or arrival destinations, under condition that all shunted vehicles pass at least one border.

## II. RAILWAY TRAFFIC

### Article 3

- (1) The railway traffic shall be performed as domestic and international railway traffic in a method and conditions prescribed in this and other Law.
- (2) The international railway traffic shall be performed according to the international agreements entered or ratified by the Republic of Macedonia.

### III. ORGANIZATION AND DIVISION OF THE RAILWAY SYSTEM

#### 1. Independence In the railway system management

##### Article 4

- (1) The railway system in the Republic of Macedonia, prescribed in this Law, is based on the principle of division of the railway transport from the railway infrastructure.
- (2) The railway infrastructure as a good of public interest for the Republic shall be owned by the Republic of Macedonia and ownership right may not be acquired upon it.
- (3) The management of the construction, reconstruction, overhaul, maintenance, protection of the railway infrastructure, organization and regulation of the railway traffic, management of the regulation and safety systems and assigning of the infrastructure capacities as activities of public interest shall be performed by the Public Enterprise for Railway Infrastructure or by other legal entity in a manner and under conditions prescribed in this Law (herein after: infrastructure manager).
- (4) The railway infrastructure manager shall be responsible for management, administration and internal control of the railway infrastructure, complying with the rules regarding the compensation for use of the railway infrastructure and assigning of the infrastructure capacities.
- (5) The passenger and/or freight transport in the railway traffic shall be performed by a railway carrier (herein after: carrier) which is independent in its activities and owns property and funds.

##### Article 5

- (1) In order to provide efficient, appropriate and good quality railway services with competitive prices, the carrier shall adjust its activities to the market conditions with lowest possible price for a given service.
- (2) The carrier should operate according to the principles of commercial activities, according to the Law.
- (3) The carrier may perform services of public interest in the passenger railway traffic based on a contract for those services signed with the Government of the Republic of Macedonia or with a competent authority in the municipalities i.e. the City of Skopje in order to provide public passenger service, according to this Law.
- (4) Every year, the carrier is obligated to prepare and issue a business plan for its operations which should include the investment and financial programs. The business plan should be prepared to achieve financial balance of the carrier as well as other technical, commercial and financial goals. In its business plan, the carrier is obligated to determine the methods for realization of the investment and financial programs.
- (5) Based on the National Program for Railway Infrastructure stipulated in article 26 of this Law and on the contracts for public interest services in the railway passenger transport, which may be multiyear, as well as on the carrier's investment and financial programs, during the preparation of the business plan, the carrier shall independently decide on the following:
  - determine the internal organization;
  - perform control on the procurements and placement of the services and determine their prices according to the market conditions and needs as well as on the obligations deriving from the public interest services in the railway passenger transport;
  - make decisions on the number of staff, on the property as well as on its own procurements;
  - decide on its participation on the market, develop new technologies and new services and adopt innovative management techniques; and

- decide on initiation of new activities and operations closely connected to the railway transport.

(6) The carrier's investment programs stipulated in paragraph (4) of this article shall be prepared for the period of three years, and the financial programs stipulated in paragraph (4) of this article shall be prepared for the period of one year.

(7) The carrier shall prepare the programs stipulated in paragraph (6) of this article according to the types of transport.

## 2. Division of the management of the railway infrastructure and railway transport

### Article 6

(1) The infrastructure manager shall:

- organize and regulate the railway traffic;
- provide fair and nondiscriminatory access and use of the railway infrastructure to all carriers which fulfill the conditions prescribed in this Law;
- assign infrastructure capacities, determine and collect the track access charge;
- plan for construction, reconstruction, overhaul, maintenance and protection of the railway infrastructure;
- perform construction, reconstruction, overhaul, maintenance and protection of the railway infrastructure;
- undertake measures for noise protection and environmental protection;
- prepare a business plan which will include the investment and financial programs;
- prepare a plan for strengthening of the infrastructure capacities;
- issue a timetable to determine the planner train traffic;
- issue and publish a network bulletin; and
- perform other activities in function of the activity.

(2) The infrastructure manager, during the performance of its activity of railway infrastructure management is obligated to keep and publish its income statement and balance sheet on its website.

(3) The carrier, during the performance of its activity of railway transport is obligated to keep and publish its income statement and balance sheet on its website.

(4) If the carrier which is paid for the performance of services of public interest in the railway passenger transport is also paid for infrastructure manager by the Budget of the Republic of Macedonia for the activity of management and maintenance of the railway infrastructure, the carrier and the infrastructure manager should record and show the funds separately on a special account and must not use them for other activities.

### Article 7

(1) The infrastructure manager, according to the National Program for Railway Infrastructure is obligated to issue a annual business plan which should include the investment and financial programs. The business plan should be prepared in order to achieve optimal and efficient utilization and development of the railway infrastructure which will provide financial balance of the infrastructure manager as well as realize other technical, financial and service goals. The infrastructure manager, in its business plan, is obligated to determine the methods for realization of the investment and financial programs.

(2) The infrastructure manager's investment programs stipulated in paragraph (1) of this article shall be prepared for the time period of three years and the financial programs shall be prepared for the time period of one year.

(3) The infrastructure manager shall prepare the programs stipulated in paragraph (2) of this article according to the type of construction, reconstruction, overhaul, maintenance, protection of the railway infrastructure and organization and regulation of the railway traffic separately.

#### Article 8

(1) The infrastructure manager shall charge a track access charge to the carriers that use that infrastructure. The infrastructure manager shall prepare rules on the determination of the amount of the track access charge.

(2) The infrastructure manager shall determine the track access charge in a nondiscriminatory manner for all carriers, taking into account the kilometers and composition of the train and other factors such as speed, axial load and the degree of use of the infrastructure or duration of the use of the infrastructure.

### 3. Improvement of the financial situation of the state owned railway carrier and infrastructure manager

#### Article 9

(1) In order to improve the financial situation of the state owned carrier, the founder may determine relevant mechanisms to reduce its debts to a level that shall create conditions for cost effective financial operations and general improvement of the financial situation whereas the state owned carrier must not acquire a monopoly position on the market.

(2) The carrier stipulated in paragraph (1) of this article is obligated to establish a special unit for payment of the debts within the framework of the accounting sector. The balance sheet shall record the debts until they are repaid, taking into account all debts undertaken by the carrier to finance investments and to cover the excess operative costs from the railway transport activity.

(3) The carrier stipulated in paragraph (1) of this article is obligated to keep and publish its income statement and balance sheet of the activity of railway freight transport services on its website.

(4) During the performance of public interest services in the railway passenger transport, the carrier must record and show the funds paid for these services in a special account and it must not use them for other activities connected with other type of transport services or other operations.

(5) In order to improve the financial situation of the infrastructure manager, the founder may determine relevant mechanisms to reduce its debts to a level that shall create conditions for cost effective financial operations and general improvement of the financial situation.

(6) The infrastructure manager is obligated to establish a special unit for payment of the debts within the framework of the accounting sector. The balance sheet shall record the debts until they are repaid, taking into account all debts undertaken by the carrier to finance investments and to cover the excess operative costs from the infrastructure management activity.

(7) The infrastructure manager, during the performance of the infrastructure management activity, is obligated to record and show the funds paid for construction, reconstruction, overhaul, maintenance and protection of the railway infrastructure on a special account and it cannot use them for other activities i.e. the revenues generated from the track access charge shall also be recorded and shown on a special account.

(8) The infrastructure manager is obligated to keep and publish its income statement and balance sheet of the activity of railway infrastructure management on its website.

## IV. RAILWAY TRANSPORT

### Article 10

The passenger and/or freight transport in the railway traffic may be performed as public transport or transport for own needs, under conditions and method determined in this Law.

### 1. Types of transport

#### Article 11

- (1) The railway transport may be organized as:
- international railway passenger and/or freight transport;
  - internal railway passenger and/or freight transport;
  - international combined freight transport; and
  - internal combined freight transport.
- (2) The transport stipulated in paragraph (1) of this article shall be performed according to the transport contract, except if otherwise prescribed in this or other Law.

### 2. Internal and international passenger and freight transport

#### Article 12

- (1) The internal and the international railway transport stipulated in article 11 of this law may be public railway passenger transport and public railway freight transport.
- (2) The public railway passenger transport may be performed as:
- urban transport – for the urban area;
  - suburban transport – for the wider metropolitan area;
  - regional transport – for the area of several municipalities; and
  - international transport – for the territory of several states.
- (3) The public railway freight transport may be performed as:
- regional transport – for the area of several municipalities; and
  - international transport – for the territory of several states.

### 3. Combined freight transport

#### Article 13

- (1) The combined freight transport shall be performed with freight unit consisted of freight vehicle, trailer, semitrailer with or without shunting vehicle or a container at least six meters long. At the beginning or at the end of the section, the freight unit shall be loaded or unloaded in terminal or RO-RO port in suitable railway station, and during the transport it uses road, railroad, internal water or sea way.
- (2) In case of a combined freight transport with freight unit, the carrier's transport documentation shall stipulate the loading and unloading railway stations for the railway section or the loading and unloading ports for the sea section of the transport. These data shall be recorded before the transport and shall be certified with the seals of the railway or port administrations in the competent railway stations, lake or sea ports, when that part of the journey is performed by railway, lake or sea.
- (3) All road traffic carriers that perform combined transport of goods at the departure and/or arrival road destinations which are integral part of a combined transport network, may but are not obligated to include land border crossing.

#### 4. Transport for own needs

##### Article 14

- (1) The transport for own needs shall be a passenger and/or freight transport performed by the infrastructure manager, carrier or other legal entities and individuals, owners of railway vehicles, for their own needs in the railway traffic.
- (2) The transport for own needs may be performed by legal entities for transport of items and workers for own needs on industrial railway.

#### V. LICENSES AND CERTIFICATES FOR CARRIER AND INFRASTRUCTURE MANAGER

##### 1. License for public railway transport

##### Article 15

- (1) The public passenger and/or freight transport shall be performed based on a license for public railway transport.
- (2) Any public or private, domestic or foreign legal entity shall have the right to submit an application for license for public railway transport, if it is registered for that activity.
- (3) The license for public railway transport (hereinafter: the license) shall be issued by the Agency for Regulation of the Railway Sector (hereinafter: the Agency) upon written request by the public or private, domestic or foreign entity. The Agency shall maintain a Register of issued license for public railway transport (hereinafter: Register of issued licenses).
- (4) The Agency shall not issue a license or extend the validity of the license of the legal entity stipulated in paragraph (2) of this article if it does not fulfill the conditions prescribed by this Law.
- (5) The legal entity stipulated in paragraph (2) of this article that fulfills the conditions prescribed in this Law shall be issued a license.
- (6) The legal entity stipulated in paragraph (2) of this article shall not be allowed to perform railway transport services according to this Law, if it has not been issued a license for public railway transport.
- (7) Except the license stipulated in paragraph (1) of this article, in order to access the railway infrastructure, the carrier is necessary to hold a certificate for safety for public railway transport.

##### Article 16

- (1) In order to obtain the license stipulated in article 15 paragraph (1) of this Law, the legal entity has to fulfill the following conditions:
  1. The headquarters of the legal entity is on the territory of the Republic of Macedonia;
  2. It is registered for railway traffic (with or without shunting of vehicles or only shunting of vehicles);
  3. It is not in a bankruptcy procedure;
  4. The responsible person or a member of the management body of the legal entity, at the moment of obtaining of the license, is not convicted for a crime in the area of public finance, payment transactions and economy; crimes against general safety of the people and property, crimes against employment relations, serious misdemeanors based on special laws governing the transport, avoiding customs supervision and failure to pay the customs or other duties paid in a customs procedure in cases when the carrier applies for a license for international freight transport which is subject of a customs procedures, during the consequences of the verdict or fine i.e. misdemeanor sanction;
  5. It is financially capable i.e. it can fulfill its present and future obligations under normal conditions of operation may within 12 months. The financial capability shall be confirmed

based on the annual accounts of the carrier or, in case when the applicant can present annual accounts, it shall present the balance sheet, including data on the following:

- capital, including bank balances as well as provisions for guaranteed overdraft and loans;
- funds and assets which are available as collateral;
- current capital;
- relevant costs which means costs for purchasing i.e. payment of bills for procurement or lease of railway vehicles, land, buildings, installations and maintenance costs for railway vehicles; and
- taxes paid according to the Law.

6. Has hired professionals who can provide a high degree of safe transport i.e. managers who have knowledge and/or experience necessary for safe and responsible operative control and supervision over the activities prescribed in the license; and

7. It is insured in an insurance company and submit a written proof that it is capable to indemnify the eventual damage according to the national and international law occurred regarding responsibility in the performance of the activity, can guarantee indemnification of damage in case of an accident to the passengers, luggage, freight, mail, third parties and environment according to the Law and other regulations and international agreement obligatory for the Republic of Macedonia.

(2) The legal entity shall be deemed financially incapable if it has not paid its obligations for taxes and contributions for its employees in significant volume, when the Agency may require audit reports and relevant documents from the legal entity's bank, report from authorized accountant or auditor who shall confirm the factual financial capability of the applicant for license.

(3) The form and content of the license form, the method of issuing of the license, the form and content of the application, the form, content and method of keeping of the register stipulated in article 15 paragraph (3) of this Law shall be prescribed by the minister managing the state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

#### Validity of the license

##### Article 17

(1) The license shall be valid until the carrier continues to fulfill the conditions stipulated in article 16 paragraph (1) of this Law.

(2) The Agency shall control the carrier whether it fulfills the conditions stipulated in article 16 paragraph (1) of this Law, at least every five years from the day of issuing of the license.

(3) Notwithstanding the paragraph (2) of this article, the Agency can check if the carrier fulfills the conditions for the license at any time if it suspects that the carrier fails to fulfill the conditions stipulated in article 16 paragraph (1) of this Law.

(4) If the Agency finds that the carrier fails to fulfill the conditions stipulated in article 16 paragraph (1) of this Law, it shall revoke its license, except for the condition stipulated in article 16 item 5 of this Law.

(5) In case of suspicion that the carrier, holding a license issued by a competent authority or body in a foreign country, fails to fulfill the conditions for the activity stipulated in the license, the Agency shall immediately inform the competent authority or body in the foreign county which has issued the license.

(6) In case when the Agency finds that the condition stipulated in article 16 paragraph (1) item 5 of this Law is not fulfilled, it may allow the carrier to continue with the transport, under condition that the safety is not endangered, until the carrier is reorganized, but not longer than six months from

the day when it has been established that the carrier fails to fulfill that condition. If the carrier fails to fulfill the condition within six months, the Agency shall revoke its license.

(7) If the carrier failed to commence with the activity within six months after issuing of the license, or if it has ceased to perform the activity for a period exceeding six months, the Agency shall revoke its license.

(8) Upon carrier's written request, the Agency may approve cease of the activity for a period not exceeding six months if it is necessary due to the circumstances and specifics of the transport performed by the carrier.

(9) In case of status changes of the carrier, it has to submit the Agency an application for a new license within seven days.

(10) When the carrier has an intention to change or expand its activities significantly, it shall submit an application to the Agency for a new license.

(11) The Agency shall not allow the carrier that has been initiated a bankruptcy or liquidation procedure to perform transport according to the license issued if it establishes that there are no real possibilities and proofs for financial consolidation within a reasonable deadline.

(12) The Agency shall issue a decision upon the application for carrier license as soon as possible, but not longer than one month after the submission of all relevant data. The decision shall be sent to the carrier and if the application is rejected, the Agency shall cite the reasons.

(13) A complaint to the Administrative Court of the Republic of Macedonia may be submitted against the decision issued by the Agency, within 30 days from the day of receipt of the decision.

#### Article 18

(1) The licenses issued to carriers by competent authorities in other countries shall be recognized on the territory of the Republic of Macedonia according to the legislation of the European Union.

(2) The carriers are obligated to comply with the agreement which are effective to the international railway transport when they perform transport in other country, as well as to comply with the relevant customs and tax regulations effective in the countries where they perform railway transport.

### 2. Safety certificate for public railway transport

#### Article 19

(1) In order to get access to the railway infrastructure, except the license for public railway transport, the carrier has to hold a safety certificate for public railway transport (hereinafter: safety certificate) according to this Law. The safety certificate may be valid for the entire railway network in the Republic of Macedonia or for a certain part thereof.

(2) The safety certificate shall ensure that the carrier has established its own system of safety management and that it fulfills the requirements stipulated in the technical specifications for interoperability and in the national safety rules to control the risks and to operate on the network safely.

(3) The Administration for safety of the railway system (hereinafter: the Administration) shall issue the safety certificate upon written application completed according to the manual for completing of the application. The Administration shall keep a register of the issued safety certificates (hereinafter: Register of safety certificates).

(4) The safety certificate shall consist of:

- part A – that confirms the acceptance of the carrier’s safety management system, prescribed according to the Law, and
  - part B – that confirms the acceptance of the national regulations for the specific conditions necessary for safe driving on the relevant network. The conditions may include application of the technical specifications for interoperability, national safety rules including the network functioning rules, acceptance of the certificates for the personnel and confirmation for commissioning of a railway vehicle used by the carrier.
- (5) The Administration shall issue the carrier a safety certificate for relevant network after it submits the following documentation on:
- application of the technical specifications on full interoperability or part or parts of interoperability and, where relevant, the national safety rules and other rules that apply to the operations, the personnel, railway vehicles and that the operations are in line with the safety management system;
  - various categories of permanent or part time personnel, as well as records on the personnel that it is familiar with the technical specifications for interoperability or the national rules governing the safety, proved with relevant certificates; and
  - various types of railway vehicles used in the transport, that they fulfill the conditions of the technical specifications for interoperability or the national rules on the railway traffic safety, proved with relevant certificates.
- (6) The Administration shall issue the carrier that fulfills the requirements stipulated in paragraph (5) of this Law a safety certificate according to paragraph (4) of this article.
- (7) The safety certificate issued according to paragraph (4) of this article has to include the type and scope of the railway operations. The part of the safety certificate issued according to paragraph (4) line 1 of this article shall be for similar transport operations.
- (8) The part of the certificate issued to a carrier by a competent authority in another state according to the legislation of the European Union shall be recognized on the territory of the Republic of Macedonia according to paragraph (4) line 1 of this article.
- (9) The Administration shall issue a safety certificate to a foreign carrier that plans to operate additional transport services on the territory of the Republic of Macedonia, according to the paragraph (4) line 2 of this article.
- (10) The safety certificate shall be issued for a period of five years, with a possibility for renewal upon application by the carrier within 30 days before the expiration of the certificate. The data in the safety certificate should be updated partially or completely always when the type or the scope of the work is significantly changed.
- (11) A carrier holding a safety certificate shall immediately inform the Administration about all significant changes in the conditions of the relevant part of the safety certificate. The carrier shall inform the Administration when it uses services of new categories of personnel or new types of railway vehicles.
- (12) The Administration may require review of the relevant part of the safety certificate in case of essential changes of the regulations regarding railway system safety.
- (13) If the Administration establishes that a carrier that holds a safety certificate ceases to fulfill the requirements of the issued certificate, it shall revoke the safety certificate part A and/or safety certificate part B, providing explanation of the reasons for the decision. The Administration that has revoked the part B of the safety certificate issued according to paragraph (9) of this article, shall immediately inform the safety authority that has issued the safety certificate, about its decision.

(14) The Administration shall revoke the safety certificate if it is obvious that the carrier that holds a safety certificate has not used it according to the purpose within a year after it has been issued.

(15) Within one month, the Administration shall inform the European Railways Agency on the issued, renewed, changed or revoked safety certificates stipulated in paragraph (4) line 1 of this article, stating the name and address of the carrier, the date of issuing, scope of operations and validity of the safety certificate and in case of revocation, the causes for the revocation.

(16) The form and content of the application and the manual for completing of the application for safety certificate, the form and content of the safety certificate as well as the form and content of the register stipulated in paragraph (3) of this article shall be prescribed by the minister managing the state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

#### Article 20

The legal entities that perform transport for their own needs should hold a safety certificate issued under conditions and method stipulated in article 19 of this Law.

### 3. License for railway infrastructure management

#### Article 21

(1) In order to manage a railway infrastructure, the infrastructure manager has to hold a license for management of railway infrastructure and safety approval for railway infrastructure management.

(2) The license for management of railway infrastructure (hereinafter: management license) shall be issued by the Agency upon written application by a public or private, domestic or foreign legal entity. The Agency shall maintain a Register of the issued licenses for management of railway infrastructure.

(3) In order to obtain the management license, the infrastructure manager has to fulfill the following conditions:

1. The headquarters of the legal entity is on the territory of the Republic of Macedonia;
2. It is registered for the activity stipulated in article 6 paragraph (1) of this Law;
3. It is not in a bankruptcy procedure;
4. The responsible person or a member of the management body of the legal entity, at the moment of obtaining of the license, is not convicted for a crime in the area of public finance, payment transactions and economy; crimes against general safety of the people and property, crimes against employment relations, avoiding customs supervision and failure to pay the customs duties or it not imposed a misdemeanor sanction of ban of activities in duration of one or several years;
5. It is financially capable i.e. it can fulfill its present and future obligations under normal conditions of operation may within 12 months; and
6. It is insured in an insurance company and submits a written proof that it is capable to indemnify the eventual damage occurred during its activity according to the Law and other regulations and international agreement obligatory for the Republic of Macedonia.

(4) The Agency shall issue a decision upon the application of the legal entity stipulated in paragraph (2) of this article, as soon as possible, but not later than within one month after the submission of all relevant data. The decision shall be sent to the legal entity stipulated in paragraph (2) of this article, and if the application is rejected, the Agency shall cite the reasons.

(5) A complaint to the Administrative Court of the Republic of Macedonia may be submitted against the decision of the Agency within 30 days from the day of receipt of the decision.

(6) The form and the content of the application for management license, the form and the content of the management license as well as the form and content of the register stipulated in paragraph (2) of this article shall be prescribed by the minister managing the state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

#### 4. Safety approval for railway infrastructure management

##### Article 22

(1) In order to manage a railway infrastructure, except the license stipulated in article 21 of this Law, the infrastructure manager has to hold a safety approval. The Administration shall issue the safety approval upon written application completed according to the manual for competing of the application. The Administration shall keep a Register of issued safety approvals for railway infrastructure management.

(2) The approval stipulated in paragraph (1) of this article shall consist of:

- adoption of the safety management system of the infrastructure manager, according to the Law; and
- adoption of the regulations of the infrastructure manager on the fulfillment of the safety specific conditions necessary for design, maintenance and operation of the railway infrastructure including, where applicable, the maintenance and regulation of the system for traffic control and signalization.

(3) The approval stipulated in paragraph (1) of this article shall be issued for the period of five years, with a possibility for renewal upon request by the infrastructure manager within 30 days before the expiration of the approval. The data of the approval shall be updated completely or partially in case of essential changes of the infrastructure, signalization or energy supply or of the operations or maintenance principles. The infrastructure manager holding a approval stipulated in paragraph (1) of this article shall inform the Administration on such changes immediately.

(4) The Administration may request that the resolution stipulated in paragraph (1) of this article is revised in case of changes of the railway system safety regulations.

(5) If the Administration finds that the infrastructure manager fails to comply to the approval stipulated in paragraph (1) of this article, it shall revoke the approval, explaining the reasons for that.

(6) Within one month, the Administration shall inform the European Railways Agency on the issued, renewed, changed or revoked safety approvals, stating the name and address of the carrier, the date of issuing, scope of operations and validity of the safety approval and in case of revocation, the causes for the revocation.

(7) The form and content of the application and the manual for completing of the application for safety approval for railway infrastructure management, the form and content of the safety approval for railway infrastructure management as well as the form and content of the register of safety approvals for railway infrastructure management stipulated in paragraph (1) of this article shall be prescribed by the minister managing the state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

#### 5. Necessary requirements connected with the safety certificate for public railway transport and safety approvals for railway infrastructure management

##### Article 23

(1) The Administration shall decide on the applications for safety certificate or safety approval promptly within a deadline not exceeding four months of the submission of the necessary information and additionally requested information. If the applicant is requested to submit additional information, it is obligated to submit the information immediately.

(2) In order to enable registration of new carriers as well as to enable the carriers from foreign countries to submit applications for safety certificates, the Administration shall give detailed directions how to obtain the safety certificate which shall include all the necessary conditions according to article 19 paragraph (5) of this Law, and shall make all the relevant documents necessary for issuing of the safety certificate, available to the applicant.

(3) The necessary directions shall be given to the carriers that submit applications for safety certificates for services on a limited part of the railway infrastructure, especially citing the rules applicable to that specific part.

(4) The directions for submission of applications that describe and explain the conditions for issuing of the safety certificates and which cite the necessary documents shall be made available to the applicants free of charge. The foreign carrier shall submit the applications for safety certificate in Macedonian and English language.

## VI. RAILWAY INFRASTRUCTURE

### Article 24

(1) The railway infrastructure shall include: the railroads with their superstructure and substructure, the railway stations, gages and switching stations, the structures, plants and equipment on the railroads, the systems for electrification, signal and safety systems, telecommunications and information systems of the railway traffic, the buildings, depots and other civil structures on the railway stations that are in function of the organization and regulation of the railway traffic, as well as the ground that functionally belongs to and under the railroad and the structures, the railroad area and the airspace above the railroad up to a height of 12 m, or 14 m above the top edge of the rails, in cases of transmission lines with voltages above 220KV.

(2) The integral parts of the railway infrastructure stipulated in paragraph (1) of this article, shall be prescribed in detail by the minister managing the state administration state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

### 1. Obligations and rights of the railway infrastructure manager

#### Article 25

(1) The infrastructure manager shall be obligated to provide permanent, uninterrupted and good quality access to the railway infrastructure and to the other means in the railway traffic, as well as to organize and regulate a safe railway traffic.

(2) The infrastructure manager during its activity shall be obligated to take care about the environment and nature according to the Law.

(3) The infrastructure manager shall be responsible for the damage to the users of the transport, railway carriers and other legal entities and natural persons caused as a result of failure to fulfill its obligations, according to the regulations governing the indemnification of damage.

(4) Due to cost ineffectiveness of a part of the railway infrastructure, the infrastructure manager may propose a cease of the access to the railway infrastructure or part of the railway infrastructure to the minister managing the state administration state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

(5) The Government of the Republic of Macedonia shall grant a consent to the cease of the access stipulated in paragraph (4) of this article upon explained proposal by the minister managing the state administration state administration authority responsible for the activities in the field of railway traffic and railway infrastructure.

(6) The infrastructure manager is obligated to inform the carriers about the cease of the access stipulated in paragraph (4) of this article not later than six months before the date envisaged for cease of the access.

## 2. Planning, construction, reconstruction, overhaul and protection of the railway infrastructure

### Article 26

- (1) The construction, reconstruction, overhaul and protection of the existing or new railway infrastructure shall be determined in the National Railway Infrastructure Program which shall be enacted for the period of three years (hereinafter: the National Program).
- (2) The National Program stipulated in paragraph (1) of this article shall be enacted by the Assembly of the Republic of Macedonia upon proposal by the Government of the Republic of Macedonia, after the Fiscal Strategy of the Republic of Macedonia is enacted.
- (3) The National Program shall determine the dynamics of realization as well as the amount and the sources of finances for construction, reconstruction, overhaul and protection of the railway infrastructure.
- (4) Based on the National program, the infrastructure manager shall prepare an Annual Program for Financing of the Railway Infrastructure which has to be complied with the deadlines for preparation and enacting of the Budget of the Republic of Macedonia. The regulations regarding the preparation of the annual Budget of the Republic of Macedonia shall apply to the amount of the budget financing of the Annual Program.
- (5) The Annual Program stipulated in article (4) of this article shall be enacted by the Government of the Republic of Macedonia upon proposal by the infrastructure manager.
- (6) For the realization of the Annual Program stipulated in paragraph (4) of this article, the infrastructure manager, through the state administration authority responsible for the railway traffic and railway infrastructure, shall submit a report to the Government of the Republic of Macedonia during the first quarter of the following year.

### Article 27

- (1) Construction of the railway infrastructure, within the sense of this Law, shall mean construction of a new railroad on a new route as well as electric and communication, signal and safety, electrical shunting, electric energy and other facilities and devices, buildings and structures on a new railroad or on the existing railroads.
- (2) The provisions of this Law that regulate the construction of the railway infrastructure shall also apply to the reconstruction of the railway infrastructure.
- (3) The railway infrastructure shall be designed, constructed, reconstructed, overhauled, equipped and maintained to serve its purpose, according to the needs for traffic safety and environmental and nature protection, in accordance with this Law and with other regulations as well as with the determined capacity of the railroad, train speeds, axial load and weight of the freight cars per longitudinal meter.
- (4) The railroads that serve the international railway traffic have to fulfill the conditions determined in the international agreement obligatory for the Republic of Macedonia.

### Article 28

- (1) The railway infrastructure shall be designed and constructed based on the conditions prescribed in this Law, the close regulations issued based on this Law as well as the norms and standards regarding the railway infrastructure.
- (2) The norms and standards stipulated in paragraph (1) of this article shall be prescribed by the minister managing the state administration state administration authority responsible for the activities in the field of railway traffic and railway infrastructure for any integral part of the railway infrastructure stipulated in article 24 of this Law.

### 3. Railroad

#### Article 29

- (1) The railroad consists of the substructure and superstructure of the railroad with the railroad structures (bridges, tunnels, culverts, retaining walls etc.), railroad equipment, railroad area and the air space above the railroad.
- (2) The railroads according to the purpose and traffic volume, economic significance or the significance for the domestic and international traffic shall be divided to main railroads and other railroads.
- (3) The Government of the Republic of Macedonia, upon proposal by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure, shall determine the network of main railroads, the other railroads, the classification and the marks thereof.
- (4) The infrastructure manager, the carrier and the legal entities that perform transport for their own needs are obligated to keep records for the railroads and railroad plants, facilities and devices and other technical data significant for the railway traffic safety.
- (5) The method of record keeping stipulated in paragraph (4) of this article shall be prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

#### Article 30

- (1) The railroad shall be designed, constructed, reconstructed, overhauled and maintained according to the general and special technical requirements for construction, reconstruction, overhaul and maintenance of the railroads.
- (2) The general technical requirements for safe railways traffic which have to be fulfilled by the railroads shall be prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.
- (3) The special technical requirements stipulated in paragraph (1) of this article which have to be fulfilled by the railroads shall be prescribed by the infrastructure manager.

#### Article 31

- (1) During a construction or reconstruction of a railroad, the investor is obligated to dislocate the installation (pipelines, water supply lines, electric, telephone and telegraph air lines, underground cables and other similar installations and devices) i.e. to adjust them to the new situation, at its own cost.
- (2) The investor is obligated to inform the owners of the installations within 60 days from the day of commencement of the works.
- (3) The investor is obligated to enable the owner of the installations to review the documentation for dislocation of the installations.

#### Article 32

- (1) After the full or partial construction or reconstruction of the railroads and railroad plants, facilities and devices as a whole and in a phase when they can be commissioned, a technical inspection shall be performed to determine if they fulfill the prescribed conditions, technical norms and other conditions they have to fulfill regarding the technical and technological unity of the railway traffic.

(2) The technical inspection stipulated in paragraph (1) of this article shall be performed in a manner prescribed in the Law on Construction.

(3) The railroads and railroad plants, facilities and devices may be commissioned based on utilization approval issued by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

#### Article 33

(1) The overhaul works on the railroad shall be performed based on a technical documentation provided that the overhaul meets the minimum standards and norms according to which it has been designed which means replacement of the railroad superstructure (rails, gage equipment, slippers, switches, sifting and filling of the curtain), restoration of the substructure and substructure elements on the existing railroads according to this and other Law.

(2) The legal entity holding a license for revision of a design documentation according to the Law on Construction shall approve the technical documentation for railroad overhaul.

(3) The method and dynamics of the railroad overhaul shall be determined by the infrastructure manager.

(4) The technical inspection of the works of railroad overhaul shall be performed by the state administration authority responsible for railway traffic and railway infrastructure.

(5) The performed railroad overhaul works may be commissioned only based on an approval issued by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

#### Article 34

The crossing of the railroads and the crossing of a railroad with another type of railroad (railroad of the industry railway, industrial gages, tram tracks etc.) usually has to occur in different levels, except if the separation of the levels proves to be uneconomical and if it disrupts the railroad traffic safety.

#### Article 35

If a crossing of a railroad and a public road, or a uncategorized road, is caused by the construction of a new railroad or upon request of the municipality or the city of Skopje or other legal entity, the expenses for the construction of underpasses and overpasses, or road passes, the expenses for placing of devices and facilities and other expenses for the provision of safe and uninhibited traffic along the road pass, shall be borne by the investor of the new structure.

#### Article 36

(1) If a part of a railroad should be dislocated due to the construction of another structure (public road, airport, reservoir, power structure, mine etc.) the part of the railroad that has to be dislocated, must be built from elements, suitable to that category of railroads, regardless of the actual condition before the dislocation.

(2) The expenses for the dislocation of the railroad from paragraph (1) of this article shall be borne by the investor of the structure because of which the railroad is being dislocated.

#### Article 37

(1) Other railroad shall be connected to a railroad only in station, and as an exception in open railroad if the measures for traffic safety prescribed by this and other Law are implemented.

(2) If the railroad is connected to main railroad on open railroad, the separation switch has to be constructed with protected gage and provided with signals and fore-signals. The signals have to be

dependant on the position of the switch that is controlled from the next occupied traffic spot on the railroad or from the central point for traffic regulation.

(3) The separation switch stipulated in paragraph (2) of this article must be occupied by a railway worker if its position is not controlled from the next occupied spot on the railroad or from the central point for traffic regulation.

#### Article 38

Common bridge for railroad and public road can be built on the same columns or with common construction if the railroad and the carriageway of the road are divided by security fences.

#### Article 39

(1) Road can't be constructed in the railroad area.

(2) Only railroad facilities and plants may be constructed in the railroad area.

(3) The distance between the railroad and the road cannot be less than eight meters from the axis of the nearest gage to the nearest spot on the road superstructure.

(4) As an exception from paragraph (3) of this article in mountain and heavy terrain, in canyons and other similar terrain configurations and in populated areas, the distance between the railroad and a road that is not a motorway, can be less than eight meters if the free profiles are not joined and there is enough space for placing signaling and safety devices, electric communication devices, stabile plants for electric shunting and other devices necessary for secure traffic and the level of the railroad is one meter above the level of the road.

(5) If the existing road does not fulfill the conditions of paragraph (4) of this article, security fences have to be placed, according to the Law.

(6) The safety fences stipulated in paragraph (5) of this article shall be placed and maintained by the legal entity authorized to maintain and protect the roads.

#### Article 40

(1) Trees cannot be planted, buildings and other structures cannot be constructed in the railroad area except structures serving to the infrastructure manager.

(2) As an exemption of paragraph (1) of this article, upon consent by the railway infrastructure manager other legal entities' structures and plants for loading and unloading goods for transportation in the railway transportation can be constructed under conditions determined by the infrastructure manager.

#### Article 41

Pipelines, electric and other air ducts and underground cables as well as other similar installations may be placed in the railroad area only with consent of the infrastructure manager. They may cross the railroad or may be installed parallel to the railroad of their installation and operation does not endanger the safety and security of the railway traffic.

#### Article 42

(1) The legal entities that construct or reconstruct railroads and plants are obligated to provide solutions for safe railway traffic in their designs for construction or reconstruction.

(2) The legal entities that perform maintenance i.e. overhaul of the railroads are obligated to perform their activities in a manner that provides safe railway traffic.

(3) The legal entities stipulated in paragraphs (1) and (2) of this article are obligated, after the conclusion of the works to remove the remaining material, the tools, warning signs and the other objects for provision of safe traffic from the railroad and railroad area.

(4) During the maintenance and reconstruction of the railroads, special care must be given to the removing of the defects on the railroad as a result of which on certain spots, serious accident, accident or mishap can occur.

(5) The infrastructure manager shall prescribe the method and the technical elements for safe railway traffic during reconstruction, overhaul and maintenance of the railroads.

#### 4. Attesting of Railroads, Plants and Equipment

##### Article 43

(1) The plants, devices and equipment that are installed in the newly constructed or reconstructed railroads which are their integral parts, are subject of compulsory attesting concerning the prescribed characteristics according to the attesting regulations for such plants, devices or equipment.

(2) The plants, devices and equipment that is integral part of the railroads can be installed on the railroads and entered into traffic, only if they have a conformity attest.

#### 5. Communication Systems

##### Article 44

(1) The communication systems of the railway infrastructure have to be constructed and maintained as integral technical and technological whole regarding the functioning and the use and to fulfill the needs for provision of safe railway traffic.

(2) During construction of new railroads and/or reconstruction of the existing railroads the electronic communication network i.e. electronic communication infrastructure with the auxiliary devices shall be performed according to the Law.

(3) The communication between the workers that directly regulate the railway traffic, realized through electronic communication network i.e. electronic communication infrastructure with the auxiliary devices, has to be recorded.

(4) The closer technical conditions on the maintenance and use of the communication systems, depending on the significance and the category of the railroads shall be prescribed by the infrastructure manager.

(5) The method of use of the electric communication connections stipulated in paragraph (2) of this article shall be prescribed in detail by the infrastructure manager.

#### 6. Signalization system and signal marks

##### Article 45

(1) Traffic signals that provide fast and safe information and understanding between the railway workers for the traffic of the trains, maneuvering, permit or prohibition of driving through some spots, for the condition of the railroad, restriction of the train's speed etc. are used during the railway traffic.

(2) The traffic railway signals shall be given with signal signs.

(3) The signal marks mark the railroad spots which are especially important for safe railway traffic.

##### Article 46

(1) The signalization system and the signal marks have to comply with the organization and the working process in railway traffic and to fulfill the requirements for safety of the traffic.

(2) The meaning of the signal signs and signal marks has to be unique at the entire territory of the Republic of Macedonia.

(3) The traffic signals, signal signs and marks on the railroad, the type, meaning, shape, colour and minimum distance of the visibility of the signal signs and marks, as well as the places of their installation i.e. placing and the manner of the use are prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

#### Article 47

The dangers of temporary character have to be marked with traffic signals, especially the ones that occur from sudden damage of the railroad and temporary restrictions and prohibitions in the traffic. Those traffic signs and marks have to be removed as soon as the reasons for their placing are not any more present.

#### Article 48

- (1) The railroad has to be equipped with the prescribed traffic signals and signal marks.
- (2) The signaling signs and signaling marks have to be illuminated with their own illumination source or to be covered with reflecting material so they can be easily visible for the railway workers and other persons in the day, night and in the conditions with reduced visibility.
- (3) The prescribed signaling signs shall warn railway workers, the carrier and the other persons for danger, inform for the limitations, bans and warnings that they have to comply with and provide the necessary information for safe railway traffic and their personal safety.
- (4) The railway traffic has to be performed according to the signaling signs and marks.
- (5) The damaged and worn out signaling signs and marks have to be removed and replaced immediately and in case when their meaning doesn't comply to the changed conditions of the traffic on the railroad and to the requirements for traffic safety they have to be supplemented by the infrastructure manager.

#### Article 49

- (1) The front side of the train, during the night, has to be marked with relevant signals and the end side of the train has to be marked with relevant signals during the day and night. At night and in case of reduced visibility during the day, the relevant signals of the train have to light in appropriate color and intensity.
- (2) Trains equipped with signals placed on the end of the train covered with reflecting material, reflecting light with appropriate intensity and color, can drive on the railroads.

### 7. Electrified railroads

#### Article 50

- (1) The electrification of the railroads is performed using the one phase system of 25 kV, 50 Hz.
- (2) The contact conductor of the one phase system (25 kV, 50 Hz) over road crossing on the level has to be placed on height of at least 5.5 meters, measured from the upper edge of the rail. On both sides of the road crossing protection gates must be placed for the vehicles that use the road whose total permitted height, together with their load, doesn't exceed the maximum height prescribed by the Law, on distance of at least 8 meters from the closest rail, measured on the road's axle and on height of 4.5 meters over the road's carriageway.
- (3) Appropriate signs for ban of the traffic of road vehicles which total height together with their freight exceeds the legally prescribed total height with indication of the height of the protection gate for safe road traffic through the road crossing have to be placed on the prescribed distance from the protection gates on the both sides of the road crossing.

(4) The protection gates stipulated in paragraph (2) of this article shall be placed by the infrastructure manager.

(5) The traffic signs for ban of the traffic of the road vehicles stipulated in paragraph 3 of this article shall be placed and maintained by the legal entity authorized for maintenance and protection of the roads.

#### Article 51

(1) On the railroads where the contact network is under voltage and where danger for the people's life exists, appropriate protection measures have to be implemented.

(2) Appropriate measures for protection against the electrical influences have to be implemented on any plants and devices which are placed in the vicinity of the contact network.

(3) The detailed criteria on the implementation of appropriate protection measures stipulated in paragraph (1) and (2) of this article shall be prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

(4) The implementation of the appropriate protection measures stipulated in paragraph (1) and (2) of this article shall be performed by the infrastructure manager.

### 8. Maintenance

#### Article 52

(1) The railway infrastructure has to be maintained (permanent and investment maintenance) in a condition that provides safe railway traffic.

(2) The infrastructure manager shall perform the maintenance works stipulated in paragraph (1) of this article.

(3) The method of railway infrastructure maintenance, for any integral part of the railway infrastructure shall be prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

#### Article 53

(1) On the railway crossings with state i.e. municipal road on the same level, the maintenance of the gage, other devices and facilities of the railroad, the carriageway of the road to three meters from the axis of the gage on both sides of the road crossing, the traffic signalization on the railroad and on the road, the installation and maintenance of the equipment and devices of the road and railroad as well as the visibility of the road crossing shall be provided by the infrastructure manager.

(2) The maintenance of the other parts and the provision of visibility on the road on a distance greater than three meters from the axis of the gage, on both sides of the road crossing and the road signalization shall be installed and maintained by the legal entity that manages the road in a manner that enables safe and uninterrupted railway traffic.

(3) The costs for maintenance of the railroad and the road, the devices and plants on the railroad and on the road will be equally borne by the infrastructure manager and the legal entity which is entrusted with the road maintenance works, and for the municipal roads and streets, the municipality i.e. the City of Skopje.

#### Article 54

(1) If a legal entity uses exclusively or mostly a uncategorized road, the costs for maintenance of the carriageway and for provision of a safe and uninterrupted traffic on the road crossing shall be borne by the legal entity.

(2) If an industrial gage or an industrial railroad crosses a street in a settlement, the maintenance costs of the carriageway and provision of safe and uninterrupted traffic shall be borne by the owner of the industrial gage or the industrial railroad.

#### Article 55

(1) If the road crossing is replaced with an overpass i.e. underpass or it is removed due to dislocation of the road traffic, the costs of the modification on the railroad and road if it is not otherwise agreed, shall be borne by:

- the infrastructure manager if that modification is caused mostly by the needs of the railway traffic;
- the legal entity that manages the road if that change is caused mostly by the need of the road traffic; and
- the legal entity that exclusively uses the road.

(2) In case of any other modifications regarding crossings, including the adjustment and improvement of the safety, the costs for modification of the railroad and road shall be borne by the infrastructure manager i.e. the legal entity that manages the road equally, according to the needs of the railway and road traffic that have caused that modification, if it is not otherwise agreed.

### 9. Protection of the railway infrastructure

#### Article 56

(1) The protection works on the railroads, facilities, devices, plants, equipment and other protection works shall be performed by the infrastructure manager.

(2) Protection works within the meaning of paragraph (1) of this article shall include measures for prevention of forbidden activities and removal of the consequences from the forbidden activities on the railroad, on the body of the railroad, railroad protection area, facilities, plants, equipment on the railroad and protection area etc. as well as initiation of a procedure before a competent court to return an illegally occupied land from the railroad area.

(3) The Administration and competent authority dealing with the internal affairs shall be informed for the illegal activities on the body of the railroad, railroad and protection area.

(4) The perpetrator of the illegal activities, upon Administration's order is obligated to remove the consequences of the illegal activities immediately.

(5) If the perpetrator fails to remove the consequences of the illegal activities, the infrastructure manager will remove them at perpetrator's expense.

(6) The method of performance of the protection works on the railway infrastructure shall be prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

#### Article 57

(1) Telephone, telegraph and other cable ducts, low voltage electric ducts i.e. power supply ducts, sewerage, water supply pipelines, district heating installations, pipelines etc. may be installed in the railroad and protection area upon an application submitted by a legal entity or natural person under conditions and manner prescribed in the approval issued by the infrastructure manager.

(2) The applicant shall bear the expenses stipulated in paragraph (1) of this article.

(3) The infrastructure manager may request from the owner of the installations and devices stipulated in paragraph (1) of this article, to rearrange or dislocate them if necessary for renovation

or reconstruction, overhaul of the railway infrastructure or in order to implement measures for railway infrastructure and railway traffic protection.

(4) The expenses for rearrangement or dislocation of the installations shall be borne by the infrastructure manager.

(5) The infrastructure manager may reject the application for approval stipulated in paragraph (1) of this article, if their installation would damage the railway infrastructure or endanger the railway traffic safety, if the installation has significant impact on the railway infrastructure maintenance or if it might prevent its reconstruction.

#### Article 58

The protection works on the railroads and the facilities thereof as well as on the regularity and safety of the railway traffic or other activities on the railroad, railroad and protection area may be performed upon approval by the infrastructure manager.

#### Article 59

(1) Buildings and other structures may be built and plants and devices may be installed in the railroad protection area based on approval, under the following conditions:

- 1) In settlements, mountain or muddy terrains or other places where the field conditions require that, opening of mines, quarries, construction of lime or bricks production facilities, construction of industrial buildings, plants and other similar structures in the protection area may be approved near the railroad if the land where these facilities are situated is in an area determined by the municipal authorities for construction of structures and plants, but not closer than 50 meters from the axis of the end gages.
- 2) Construction of housing, business, auxiliary and similar buildings, digging wells, reservoirs, septic tanks etc., construction of long distance power lines may be approved in the settlements and on the land stipulated in item (1) of this paragraph, but not closer than 25 meters from the axis of the end gages; and
- 3) Signs and billboards may be placed in the protection area on a distance of at least seven meters from the end point of the railroad area.

(2) The infrastructure manager shall issue the approval stipulated in paragraph (1) of this article.

(3) The expenses for the approval stipulated in paragraph (1) of this article shall be borne by the applicant and they should not exceed the real costs made to issue the approval.

(4) In towns, the urban plans, state urban planning documentation or local urban planning documentation may envisage structures which may be constructed on a distance which cannot be less than 10 meters from the end point of the railroad area.

#### Article 60

(1) The manager of the railway infrastructure, on the locations of landslides, torrents, places exposed to river erosion and places exposed to strong winds, where the railway traffic may be jeopardized, is obligated, independently or together with another legal entity, in due time to undertake the necessary measures of technical and physical protection of the railroads and the structures on the railroad against elementary disasters, in order to provide safe railway traffic.

(2) The manager of the railway infrastructure, in the cases stipulated in paragraph (1) of this article has the right, without any approval, to place and maintain temporary protection devices and temporarily to store material and other assets within the protection area, if this is deemed

necessary for the undertaking of the measures that will ensure safe railway traffic or the establishment of the railway traffic.

(3) When the circumstances stipulated in paragraph (1), cease to exist, the manager of the railway infrastructure shall remove from the protective area the temporary protection devices, material and other assets that have been left there during the undertaking of the measures for the safe railway traffic or the establishment of railway traffic, and reinstate the terrain and pay a fee for the use of the land.

#### Article 61

(1) At locations where the railway infrastructure passes through forests or next to forests, or a land containing agricultural crops which are flammable, the manager of the forest or the land shall be obligated to undertake prescribed measures for protecting the railway zone against fire, as well as protection measures against fire from the railway vehicles.

(2) The users, and the owners of the forests or the lands stipulated in paragraph (1) of this article, shall be obligated, within an ten meters wide forest area, remove the dry trees, bushes and leaves, and within a five meters wide area of other land to remove the dry and flammable plants and undertake other measures for protection against fire.

#### Article 62

When cleaning of snow from overpasses above electrified railroads, mechanical protection must be provided to prevent the snow from falling onto the contact network.

#### Article 63

(1) The manager of the infrastructure shall keep a record regarding: the condition of the railroads, the geometric characteristics of the railroad and the railroad area, the land cadastre, the characteristics of the terrain related to the protection of the railroad, the installations in and on the body of the railroad including the traffic signalization, the telecommunication devices, the contact network, the protective fences, the road passes and other data, as well as any changes to these data.

(2) The manner for keeping such records and use of the data stipulated in paragraph (1) of this article, shall be prescribed by the Minister managing the state administration authority responsible for the railway traffic and railway infrastructure.

### 10. Industrial railroad and industrial gage

#### Article 64

(1) The provisions of this law pertaining to the construction, reconstruction, overhaul, maintenance and protection of the railway infrastructure, shall also apply for the industrial railroads and the industrial gage.

(2) The railroad of the industrial railway or an industrial gage may be connected to the railroad network.

(3) A legal entity or an individual may have an industrial gage connected to the railway infrastructure, as well as industrial gages, facilities, devices and structures on those gages, railway vehicles and other assets built according to special norms and standards prescribed in this Law.

(4) The method of connection of the industrial railway stipulated in paragraph (2) of this article and the industrial gages stipulated in paragraph (3) of this article shall be regulated by a contract between the infrastructure manager and the legal entity or the individual whose industrial railway or industrial gage is connected.

(5) A legal entity or the individual owning the industrial gage shall pass an act on the conditions of construction, reconstruction, overhaul, maintenance and protection of the industrial gage, railway

vehicles and other assets built according to special technical norms and standards, as well as for the organization and regulation of the railway traffic on the industrial gage, subject to a previously obtained approval from the state administration authority responsible for the railway traffic and railway infrastructure.

## VII. ACCESS TO THE RAILWAY INFRASTRUCTURE

### Article 65

(1) The railway carrier that holds a license and a safety certificate, may perform public transportation services on the railway infrastructure, provided that the carrier has access to the infrastructure.

(2) The access to the railway infrastructure shall be granted to the railway carriers that fulfill the conditions prescribed by this Law, by the manager of the infrastructure in a transparent and non-discriminatory manner.

(3) For the access to the railway infrastructure, the carriers shall sign a contract with the infrastructure manager.

(4) The contract for access to the railway infrastructure shall be signed within 60 days before the effectiveness of the new timetable, except if there are free capacities when the contract may be signed during the validity of the existing timetable and it has to be signed in a non-discriminatory way and according to this and other Law.

(5) The contract for accessing the railway infrastructure, stipulated in paragraph (3) of this article shall regulate the mutual rights and obligations between the railway carriers and the manager of the railway infrastructure, the awarded infrastructure capacities, the track access fee, as well as other issues regarding the safety of the transport and protection of the environment.

(6) The carriers are given access to the infrastructure in order to enable to perform transport stipulated in articles 11 and 14 of this Law.

(7) The infrastructure manager shall provide the applicant with an access to infrastructure in other countries in order to:

- perform international combined freight transport services;
- perform international freight transport; and
- perform international passenger transport.

(8) The infrastructure manager shall provide the applicant for international passenger transport possibilities for access to the railway infrastructure for boarding and unboarding at any station open for passenger transport on the territory of the Republic of Macedonia, as well as transit.

(9) The infrastructure manager shall enable access to the applicant for international freight transport to use the terminals, ports and other facilities connected with railway activities, as well as transit.

(10) The carriers are provided access to, and the services in the terminals, ports and other facilities connected with the railway activities that serve or may serve more than one end user in non-discriminatory and transparent manner and the applications of the carriers may be limited only in case there are other alternative terminals, ports and other facilities under market conditions.

(11) The access to the railway infrastructure may be limited to a carrier for transport stipulated in paragraph (8) of this article between the departure and arrival destination of the international relation, covered with one or several public service contracts according to this Law. The limitation does not apply to the right for boarding passengers at any railway station along the section of the

international service and unboarding at another station, including the stations on the territory of the Republic of Macedonia, except when the realization of this right endangers the economic balance of the public service contract. The Agency shall decide upon the endangering of the economic balance of the public service contract based on impartial economic analysis and criteria established by the Agency, upon request by:

- competent authorities that have signed the public service contract;
- infrastructure manager;
- carrier that implements the public service contract; or
- carrier that applies for access to use the railway infrastructure.

(12) The competent authorities that provide public services shall submit the Agency the information necessary to make a decision on the economic balance of the public service contract signed according to this Law. The Agency shall review the submitted information, consult all the relevant parties and shall inform them within a deadline which may not exceed one month from the receipt of the relevant information. The explanation of the decision shall cite the time period and the conditions under which the competent authorities, the infrastructure manager and the carrier that performs public service, the applicant for access may request review of the decision.

(13) A complaint to the Administrative Court of the Republic of Macedonia may be submitted against the decision stipulated in paragraph (12) of this article, within 30 days from the day of receipt of the decision.

#### Network Bulletin Article 66

(1) The infrastructure manager, after consultations with the interested applicants, shall issue and publish a Network Bulletin.

(2) The Network Bulletin should provide information on the nature of the railway infrastructure which is accessible to the carriers and information on the conditions for access to the relevant railway infrastructure.

(3) The Network Bulletin shall include:

1. A part that provides information on the nature of the infrastructure which is available to the carriers, the general conditions for access to the infrastructure as well as the general information for Network Bulletin;
2. A part regarding the principles of collection and on the amount of the charges that includes relevant details and information on the collection which apply to the services provided in article 68 of this Law, provided by the infrastructure manager. Except these details, the Network Bulletin shall also include details on the methodology, rules and, where applicable, relevant level of collection according to article 70 paragraph (4), (5), (6) and (7) and the article 71 and 72 of this Law, as well as information on the changes of the amount of the charge which is applied or is envisaged to be applied; and
3. A part regarding the principles and criteria for distribution of the capacities. This part shall include the general characteristics of the infrastructure capacities which are available to the carriers and all the limitations regarding its use, including the possible applications for capacities for infrastructure management, determining the procedures and deadlines of the process for assignment of the capacities, especially:
  - the procedure for applying for capacities from the infrastructure manager;
  - applications that should be submitted by the applicants,
  - plan and process for assignment of capacities;
  - principles regarding the coordination process;
  - procedures that are followed and criteria used when the infrastructure is saturated;
  - детали за ограничувањата за користење на инфраструктурата и

- all conditions which are taken into account from the previous use of the capacities, setting priorities in the process of distribution of the capacities.

(4) The part of the Network Bulletin stipulated in paragraph (3) item 3 of this article shall include the details on the measures undertaken to provide appropriate treatment of all services and applications which are subject of a ad-hoc procedure.

(5) The Network Bulletin should be updated regularly and if necessary it can be amended.

(6) The Network Bulletin shall be published at least four months before the deadline for submission of applications for infrastructure capacities, on the website of the infrastructure manager or in at least two daily newspapers.

## VIII. TRACK ACCESS CHARGE

### 1. Preparation, determination and collection of the track access charge Article 67

(1) For the use of the railway infrastructure, the railway transporter shall pay a track access charge. The amount of the track access charge fee shall be determined and the track access charge shall be collected by the manager of the railroad infrastructure.

(2) The funds from the collection of the track access charge stipulated in paragraph (1) of this article shall be revenues for the manager of the infrastructure.

(3) The criteria used for the determination of the amount of the track access charge stipulated in article 8, paragraph (2) of this Law must be equal for all transporters and non-discriminatory.

(4) The same track access charge will be levied against transporters that perform domestic or international passenger transport.

(5) The managers of the infrastructure shall cooperate in order to provide efficient services in with regard to the transport of trains that traverse more than one infrastructure network. They shall guarantee optimal competitiveness of the international transport of goods and provide for efficient utilization of the international railroad network. For this purpose, the infrastructure managers may join in common groups.

(6) The infrastructure managers shall ensure that the track access charge shall be applied on the basis of equal principles for the entire network, except for the investment projects stipulated in article 71, paragraph (1) of this law.

(7) The infrastructure managers shall be obligated to ensure that the applications for the track access charge collection plan shall be applied equally and in a non-discriminatory fashion to different transporters that provide services of the same nature on a similar part of the market. And the charge collection that shall apply shall be in accordance with the rules stipulated in the bulletin of the network.

(8) The infrastructure manager shall be obligated to adhere to and to respect the confidentiality of the information that it receives from the applicants.

### 2. Services Article 68

(1) The following services shall be offered to the transporters that use the railroad infrastructure:

1. A minimal packet of services, comprising:
  - processing of the applications for awarding infrastructure capacities;
  - the right to use the awarded capacity;
  - utilization of main and departure-arrival gages and switches;

- management of train traffic, including signalization, regulation, traffic planning, train traffic related negotiations and provision of information about movement of trains and
- other information necessary for the application and the utilization of the awarded capacity.

2. Railroad access to service facilities and utilization of the service facilities, which includes the following:

- equipment for provision of electricity for shunting, where available;
- fuelling facilities;
- official sites, their buildings and passenger traffic facilities;
- freight terminals;
- marshalling yard;
- train formation facilities;
- service gages for parking of wagons;
- facilities for maintenance and other technical structures.

3. Additional services, including the provision of the following:

- electricity required for shunting of trains;
- previous heating of passenger trains;
- fuel, maneuvering and other services that are provided by the railroad access to service facilities and
- services that relate to the control of transport of hazardous substances by railroad and assistance during transport of trains with special cargo on the basis of special agreements.

4. Auxiliary services, including:

- access to the electronic communications network;
- provision of additional information and
- technical control of railroad vehicles

(2) The manager infrastructure that has signed a contract providing railroad infrastructure access to a transporter, shall always provide the use of the minimal packet of services for the railroad access and railroad access to the service facilities, in an equal and non-discriminatory fashion.

(3) The infrastructure manager shall provide services related to the utilization of service facilities, additional and auxiliary services at the request of the transporter.

(4) For the services stipulated in paragraph (3) of this article, the manager of the infrastructure and the transporter shall sign a special contract.

(5) The infrastructure manager shall provide information about providers services related to utilization of service facilities, additional and auxiliary services not provided by the infrastructure manager. This information will be provided in the bulletin of the network.

(6) The use of the service structures which are not at the disposal of the manager of the infrastructure as well as the additional and auxiliary services that are not provided by the manager of the infrastructure shall be subject to a separate agreement between the transporter and the service provider.

(7) The provider of the service stipulated in paragraph (5) of this article, shall provide its services in an equal and non-discriminatory fashion.

(8) The related to the utilization of the facilities stipulated in paragraph (1), item 2 of this article shall be provided in a non-discriminatory fashion, and the applications from transporters can be rejected only if there are alternatives according to the existing market conditions.

(9) The transporters can request more auxiliary services than the services stipulated in paragraph (1) item 4 of this article, from the infrastructure manager or from a different service provider. The infrastructure manager shall not be obligated to provide these services.

### 3. Costs of the infrastructure manager

#### Article 69

(1) The accounts of the infrastructure manager must be balanced by the revenues from the collection of the track access charge, the revenues from other commercial activities performed, and the funds from the Budget of the Republic of Macedonia on one hand, and the costs for managing the infrastructure on the other hand.

(2) If it is not contrary to the long term goals for compensating the infrastructure costs for all types of transport, and on the basis of equal, non-discriminatory competition between various types of transport, so that the railroad transport can be competitive in comparison with the other types of transport, within the framework of collecting the charges in accordance article 70 and 71 of this law, the infrastructure manager should cover the costs related to its activities from its own funds.

(3) The manager of the infrastructure can be provided with an incentive to reduce the infrastructure costs and the level of the track access charge, taking into account the safety, maintenance and improvement of the quality of the infrastructure service.

(4) The manager of the infrastructure shall provide the services stipulated in paragraph (3) of this article either by signing a contract with the competent state authorities for a period of not more than three years that provides for the possibility of financing according to the funds provides for in the Annual program stipulated in article 26, paragraph (4) of this article or by introducing and establishing other measures.

(5) If there are contracts, the conditions of the contract and the method of payment which provide for the financing of the infrastructure manager shall be agreed in advance and shall apply for the entire duration of the contract.

(6) The method for allocating the funds to cover the costs related to the activity, shall be proposed by the infrastructure manager and shall have to be agreed by the Government of the Republic of Macedonia. The method shall be updated from time to time in accordance with the best international practices.

### 4. Principles for determining the track access charge

#### Article 70

(1) The railway infrastructure access charge shall be paid to the infrastructure manager and shall be used to finance the operations of the infrastructure manager.

(2) The manager of the infrastructure shall provide in the Bulletin of the Network all necessary information about the track access charge, that relate to the rules and principles for determination of the railroad infrastructure track access charge.

(3) The rules and the principles for determining the railroad infrastructure track access charge shall justify the track access charge and shall be compliant with the methodology published in the Bulletin of the Network.

(4) The charge for the minimal packet of services and for the railroad access to service facilities shall be determined at price which will be a direct result of train traffic.

(5) The railroad infrastructure access charge shall comprise the charge for the minimal packet of services and railroad access to service facilities, as well as other costs in accordance with paragraph (6) of this article.

(6) The railroad infrastructure access charge may also include a cost related to lack of capacities for a certain section of the infrastructure, during times when the infrastructure is congested and/or costs for environmental impacts caused by the movement of the train. The environmental impact cost will depend on the scope of the caused effect.

(7) The environmental impact cost, stipulated in paragraph (6) of this article, which contributes to the increase of the revenues of the infrastructure manager, shall be collected on the basis of comparative indicators with other competitive types of transport.

(8) In the absence of comparative indicators about the environmental impact cost in other competitive types of transport, the funds from the collected charge shall not influence the change in revenues of the infrastructure manager. If the charge includes an environmental pollution cost of the railways and other competitive types of transport and if this leads to additional revenues, the Government of the Republic of Macedonia shall decide how they should be used in accordance with the program stipulated in article 26, paragraph (4) of this law.

(9) In order to avoid any adverse deviations when determining the railroad infrastructure access charge which includes the costs stipulated in paragraph (6) of this article, the access charge can be determined through the average scope and time of use of the service, taking into account the real costs incurred by the provision of the service.

(10) The charge for provision of the services stipulated in article 68, paragraph (1), item 2 of this law shall be collected competitively on the free market.

(11) In the event when the service stipulated in article 68, paragraph (1), item 3 and 4 of this law are provided by only one service provider, then the charge for such services shall relate to the cost of providing the service calculated on the basis of the real level of use.

## 5. Exceptions to the principles for determining the charge

### Article 71

(1) For specific investment projects envisaged in the future or investment projects that have been completed, the infrastructure manager can determine or continue to collect a higher charge on the basis of the long term costs of such projects, if they increase the efficiency and/or effectiveness of the cost, and if there is no other way to implement them. Such charges can be collected by signing appropriate contracts for sharing of the risks derived from these new investments.

(2) In an environment of increased productivity of the carriers and in order to achieve full coverage of the costs of the infrastructure manager, the infrastructure manager may charge increased charges based on efficient, transparent and non-discriminatory principles, provided that this does not disrupt the market conditions of operations in the railroad transport, until the infrastructure manager can guarantee optimal competitiveness, especially in the international railroad transport of goods.

(3) The increase of the charge stipulated in paragraph (2) of this article must prevent the use of the infrastructure by entities on the market that can pay at least the cost that has been directly incurred by the provision of the railroad infrastructure, increased by the rate of return in accordance with the market conditions.

(4) In order to prevent discrimination, the infrastructure manager shall apply similar or same segments of the market of similar services to the increase of the charge stipulated in paragraph (1) and (2) of this article. The manager of the infrastructure shall stipulate in the Bulletin of the Network that the system of collecting the charges fulfills the requirements to that effect, without disclosing any confidential information.

(5) If the infrastructure manager intends to change the system for collection of charges stipulated in paragraph (1) and (2) of this article, then the infrastructure manager shall be obligated to change the appropriate network bulletin at least three months in advance.

## 6. Discounts Article 72

(1) The infrastructure manager can approve a discount on the charge payable by the carrier for any service in accordance with the criteria determined in this article.

(2) The manager of the infrastructure can introduce special schemes of discounts of the charges for all users of the infrastructure. These can relate to specific transports, awarding time limited discounts in order to stimulate the development of new railroad services or discounts that encourage the utilization of sections that are insufficiently used for transport.

(3) Notwithstanding paragraph (2) of this article, the discounts should be limited to the savings incurred by the infrastructure manager on the account of the administrative costs. When determining the level of the discount, the infrastructure manager cannot take into account the cost savings that have already been taken into account when the level of the charge was determined.

(4) The discounts stipulated in paragraph (1) of this article can be approved only for specific sections of the infrastructure.

(5) The manager of the infrastructure shall approve the equal discounts for equal services.

(6) The discounts approved by the manager of the infrastructure shall be published in the bulletin of the network.

## 7. Plan for compensating unpaid costs incurred due to environmental pollution, accidents and infrastructure costs

### Article 73

(1) The Government of the Republic of Macedonia can enact a plan for railroad infrastructure access charges. These charges shall be awarded to a carrier for a definite period of time, and shall relate to demonstrated costs that have occurred due to environmental pollution, accidents and infrastructure costs for competitive types of transport, and which costs have not been covered. Such compensation shall be awarded until these costs exceed the equivalent costs for using the infrastructure.

(2) A carrier that received such compensation in accordance with paragraph (1) of this article shall be obligated to use the funds from the compensation for purposes determined in the plan stipulated in paragraph (1) of this article.

(3) The methodology used and the calculations made to determine the compensation shall be public and shall demonstrate the concrete uncovered costs incurred by using other competitive transport infrastructures.

(4) The compensation plan stipulated in paragraph (1) of this article shall be public and the compensation shall be awarded to the carriers under non-discriminatory conditions.

## 8. System of indicators for improvement of the quality of the transport Article 74

(1) Through specific indicators for improvement of the quality of the transport, determined in the system for collection of the railway infrastructure access charge, the carriers and the manager of the infrastructure should be stimulated to reduce the delays and to improve the quality of the transport.

(2) The system stipulated in paragraph (1) of this article shall contain measures for preventing disruptions of the management of traffic, compensating carriers that suffer losses due to the traffic management disruptions and premiums which shall be awarded to those entities that have improved their indicators or have exceeded the target indicators.

(3) The basic principles of the system stipulated in paragraph (1) of this article shall refer and shall apply to the entire network.

## 9. Reservations Article 75

(1) The managers of the infrastructure can charge for appropriate reservations of the use of certain capacities that have been awarded, but are not used. This charge should provide an incentive to use the capacities more efficiently.

(2) The manager of the infrastructure shall inform all interested entities that need to use infrastructure capacities that have been already awarded to users or carriers, but are not used.

## IX. AWARDING OF INFRASTRUCTURE CAPACITIES

### 1. Rights to the capacities Article 76

(1) The infrastructure capacities shall be awarded by the manager of the infrastructure. The awarding of the infrastructure capacities shall be performed by type of train route.

(2) The applicant cannot transfer the awarded infrastructure capacity to another carrier or service provider.

(3) Any trade with the infrastructure capacities shall not be allowed and will result in the exclusion of the transporter from any further awarding of the capacities.

(4) The use of infrastructure capacities by a carrier that works on behalf of an applicant, and if the applicant is not a carrier, shall not be considered a transfer or trading with capacities in accordance with paragraph (3) of this article.

(5) The right to use the infrastructure capacities in the form of a route of a train shall be granted to the applicants, once per year during the period of validity of the time table.

(6) The manager of the infrastructure and the applicant may sign a framework agreement, in accordance with article 80 of this law, for the use of the capacities of the railway infrastructure for a period of time longer than the validity of one annual time table.

(7) The rights and obligations between the infrastructure manager and the applicants regarding the awarding of the capacities shall be determined with this law.

(8) If the applicant intends to ask for an infrastructure capacity in order to perform international passenger transport, in accordance with article 65, paragraph (8) of this law, then the applicant shall inform the infrastructure managers and the Agency thereof, in order to allow for an assessment to be made of the intention to perform passenger transport as well as the potential economic influence on the existing contracts for public services. The agency shall inform the competent authority that signed the public service contract as well as the carrier that performs the public service contract.

### 2. Rules and processes for awarding infrastructure capacities Article 77

(1) The manager of the infrastructure, as an independent entity managing the railway infrastructure, shall implement a procedure for awarding infrastructure capacities, in accordance with this law.

(2) The implementation of the procedure for awarding the infrastructure capacities, shall be performed by the infrastructure manager in accordance with established rules. The manager of the infrastructure shall ensure that the infrastructure capacities are awarded on an equal and non-discriminatory basis.

(3) The managers of the infrastructure shall be obligated to respect any trade confidentiality of the information they receive.

### 3 . International cooperation regarding the awarding of international infrastructure capacities Article 78

(1) The manager of the infrastructure shall cooperate with infrastructure managers from other countries in order to facilitate efficient awarding of international infrastructure capacities and appropriate procedures for their realization shall be determined.

(2) The procedures stipulated in paragraph (1) of this article shall be determined in order to facilitate coordination when awarding infrastructure capacities on international level, and therefore the representative of the manager of the infrastructure shall liaise with the other involved infrastructure managers whose decisions to award infrastructure capacities have an impact on one or more infrastructure manager.

(3) The decisions to award infrastructure capacities to perform international railroad transport services shall be made by the representatives of the infrastructure managers on joint meetings or other activities undertaken for that purpose.

(4) During the cooperation, in accordance with paragraphs (1) and (2) of this article, the representatives of the infrastructure managers shall evaluate the needs and if necessary, they can organize international railway routes, in order to facilitate the transport of freight trains subject to ad-hoc applications, in accordance with article 86 of this law. The international railway train routes that have been previously agreed can be awarded to applicants by any one of the infrastructure managers that participated in the cooperation.

### 4. Applicants Article 79

(1) The applications for obtaining infrastructure capacities (hereinafter in the text: applications) can be submitted by transporters and their international groups or other applicants.

(2) The conditions for obtaining infrastructure capacities shall be appropriate, transparent and non-discriminatory and shall be published as part of the Bulletin of the Network.

(3) The infrastructure manager shall define the conditions for awarding infrastructure capacities and shall ensure that the expected revenues and use of the infrastructure are certain for the carrier.

(4) The conditions stipulated in paragraph (2) of this article can also contain a financial guarantee that cannot exceed the appropriate level which shall be proportional to the expected level of revenue from the performed transport services. The manager of the infrastructure shall also guarantee that it will provide the required capacities to the applicant.

(5) The form and the content of the application form for obtaining infrastructure capacities shall be prescribed by the manager of the infrastructure.

## 5. Framework agreement Article 80

(1) The manager of the infrastructure may sign a framework agreement for using the railroad infrastructure with the applicant. The framework agreement shall specify the characteristics of the infrastructure capacities requested and offered to the applicant for a time period longer than one annual timetable.

(2) The framework agreement stipulated in paragraph (1) of this article shall not specify the train route in detail, rather it should determine the realistic commercial needs of the applicant.

(3) The manager of the infrastructure shall be obligated to ask the Agency to approve the framework agreement stipulated in paragraph (1) of this article.

(4) The framework agreement stipulated in paragraph (1) of this article must not prevent the use of a certain railroad infrastructure or certain services by other applicants.

(5) The framework agreement stipulated in paragraph (1) of this article, can be augmented or restricted with respect to the conditions contained therein, in order to provide for better utilization of the railroad infrastructure.

(6) The framework agreement stipulated in paragraph (1) of this article can contain provisions that are necessary for changing or terminating the contract.

(7) The framework agreement, as a rule, shall be signed for a period not longer than five years and can be extended for an additional period of five years. Notwithstanding the above, the infrastructure manager can accept a period shorter or longer than five years depending on the specific circumstances. The agreement can be signed for a period longer than five years if this is justified by existing commercial contracts, special investments or risks.

(8) If there are services performed on specialized infrastructure, in accordance with article 87 of this law, and if this infrastructure requires significant and long term investments, which the applicant accepts in full, then the framework agreement can be signed for a period of 15 years.

(9) Notwithstanding paragraph (8) of this article, a framework agreement can be signed for a period longer than 15 years only in the event when there exists a large long term investment and when such an investment is covered with contractual obligations which include a multi annual amortization plan.

(10) According to paragraph (8) of this article, the applicant can require a detailed description of the characteristics of the infrastructure capacity including frequency, scope and quality of the tracks that will be provided to the applicant for the duration of the framework agreement. The manager of the infrastructure can reduce the reserved capacity if this capacity was utilized less than the quota stipulated in article 90 of this law within a period of at least one month.

(11) The general elements of the framework agreement shall be available to any interested party through the Bulletin of the Network.

## 6. Plan and deadlines for awarding infrastructure capacities Article 81

(1) The manager of the infrastructure shall award capacities on the basis of the plan for awarding infrastructure capacities, as follows:

1. The earliest start date for receiving applications from the applicants that want to obtain infrastructure capacities that will be included in the new timetable is 12 months, i.e. the final deadline is 8 months before the new time table enters into force;
  2. Not later than 11 months before the new time table enters into force, the manager of the infrastructure, together with the neighboring infrastructure managers should prepare a catalogue of tracks specifying temporary international routes in cooperation with the other relevant authorities in accordance with article 78 of this law. If the manager of the infrastructure is not able, due to realistic reasons, to specify temporary routes, then the infrastructure manager shall prepare a draft time table in consultation with the applicants and this draft time table shall represent the basis for requesting infrastructure capacities;
  3. After the expiration of the deadline for submitting the application for awarding infrastructure capacities, the manager of the infrastructure shall commence the procedure for awarding infrastructure capacities;
  4. The applications for infrastructure capacities submitted after the final deadline shall not be considered;
  5. No later than four months before the final deadline for submission of the applications for infrastructure capacities by the applicants, the manager of the infrastructure shall prepare a time table design. The time table design shall include all received applications within the specified deadline stipulated in paragraph (1), item 1 of this article, including all of the limitations imposed by the infrastructure manager as well as the infrastructure capacities envisaged for maintenance of the infrastructure;
  6. The application receiver after the preparation of the time table design shall not lead to any changes in the design, except with a prior agreement of the applicant who first received the infrastructure capacity in question.
- (2) The manager of the infrastructure shall agree with the infrastructure managers from other countries as to which international routes should be included in the timetable, before commencing the consultations for the timetable design which would require some adjustments.

## 7. Applications Article 82

- (1) The applicants shall submit applications to the manager of the infrastructure in order to sign a contract for access to the railroad infrastructure.
- (2) The applications referring to the awarding of infrastructure capacities shall be prepared in accordance with the deadlines stipulated in article 81, paragraph (1) of this law.
- (3) An applicant that is a contracting party to the framework agreement stipulated in article 80 of this law, shall submit an application in accordance with that agreement.
- (4) An applicant that submits an application for infrastructure capacities that refer to more than one network can submit its application only to one manager of the infrastructure. In that case, the manager of the infrastructure can apply for infrastructure capacity, on the applicant's behalf, to other infrastructure managers.
- (5) An applicant that submits an application for infrastructure capacities that refer to an international route, can submit its application only to one manager of the infrastructure and in that case that infrastructure manager, on behalf of the applicant, can ask other infrastructure managers for infrastructure capacities.

## 8. Procedure for awarding infrastructure capacities

## Article 83

- (1) In the procedure for awarding infrastructure capacities the manager of the infrastructure shall be obligated to fulfill the requests for capacities to the farther extent possible, including the requests for train routes that traverse more than one network, taking into account all the limitations with related to the capacities of the applicants, as well as the economic results of their work.
- (2) The manager of the infrastructure can give the priority to a specific type of services when awarding infrastructure capacities and during the coordination process, in accordance with article 85 and 87 of this law.
- (3) The infrastructure manager shall reconcile the timetable design with the applicants starting from the day when the applications are submitted and until the day the timetable design is prepared.
- (4) The applicants shall be obligates to express their opinion on the timetable design no later than one month after they have received it.
- (5) If the applicants fail to express their opinion within the deadline stipulated in paragraph (4) of this article, then the manager of the infrastructure shall consider that the timetable design has been accepted, and the applicant shall consider that it has been awarded the requested infrastructure capacity.
- (6) The manager of the infrastructure shall undertake all of the necessary measures in order to review and analyze the expressed remarks and proposals provided by the carrier with respect to the timetable design.

## 9. Coordination process Article 84

- (1) In the procedure for awarding infrastructure capacities in accordance to article 83 of this law, when the manager of the infrastructure faces certain disagreements between the various application from the applicants, the infrastructure manager shall provide for the most optimal fulfillment of all requests.
- (2) In the process of coordination, the manager of the infrastructure shall have the right to propose infrastructure capacities different than the capacities stipulated in the submitted application.
- (3) The manager of the infrastructure shall take care to resolve all disagreements in the coordination process by way of consultations with the applicants in order to avoid any conflicts between the applicants and the manager of the infrastructure.
- (4) The procedure that will be applied in the coordination process shall be determined by the infrastructure manager and shall be published in the Bulletin of the Network.
- (5) The procedure stipulated in paragraph (4) of this article shall refer to methods how to overcome the difficulties related to negotiating the train routes, as well as methods how to overcome the consequences from changes that can have impacts on other infrastructure managers.
- (6) When the applications for infrastructure capacities cannot be fulfilled in the coordination process, the manager of the infrastructure shall enact a decision determining the capacity and shall submit this decision to the applicant.
- (7) The applicant that is not content with the decision made by the manager of the infrastructure shall have the right to an appeal.
- (8) The appeal stipulated in paragraph (7) of this article shall be submitted to the Agency.

(9) The Agency shall make the decision on the appeal within 10 working days from the day when the appeal was received.

## 10. Congested infrastructure

### Article 85

(1) When the process of coordination and the consultation with the applicants cannot satisfy the different requests for infrastructure capacities, then the manager of the infrastructure shall immediately proclaim that that part of the infrastructure is congested. A part of the infrastructure that will lack capacities in the near future can also be proclaimed as congested.

(2) When the manager of the infrastructure proclaims that a part of the railroad infrastructure is congested, then the manager of the infrastructure shall make an analysis of the capacities in accordance to article 88 of this law, unless a plan to strengthen the capacities has been implemented in accordance with article 89 of this law.

(3) When the appropriate charges for using the railroad infrastructure, in accordance with article 70, paragraph (4) have not been paid or if the collection of such charges is not satisfactory and if the infrastructure is congested, the manager of the infrastructure can additionally apply priority criteria for awarding the infrastructure capacities.

(4) When determining the priority criteria the infrastructure manager shall have in mind the importance of the service, in particular when the service refers to international transport of goods.

(5) In order to guarantee the development of appropriate transport services, and especially to fulfill the demands for public services or to stimulate the railway transport of goods, the manager of the infrastructure shall undertake all necessary measures, under non-discriminatory conditions, to ensure that such services become a priority when awarding infrastructure capacities.

(6) In order to stimulate the development of the railway transportation of goods, in the event of a congested infrastructure, the Government of the Republic of Macedonia can approve funds for the infrastructure manager, in accordance with the funds provided in the Annual program stipulated in article 26, paragraph (4) of this law.

(7) The procedures that apply and the criteria used when the infrastructure is congested shall be contained in the Bulletin of the Network.

## 11. Ad hoc applications

### Article 86

(1) The manager of the infrastructure shall respond to every ad hoc application for individual train routes as soon as possible, and at most within five business day after the day the application was submitted. The information provided about the uncommitted or unused capacities to all applicants that intend to utilize infrastructure capacities, shall have to be made available in a non-discriminatory fashion.

(2) The manager of the infrastructure, if necessary, shall perform an evaluation of the need to reserve capacities that will be made available in accordance with the timetable, in order to be able to quickly respond to the possible ad hoc applications for utilization of infrastructure capacities, including the capacities on congested parts of the infrastructure.

## 12. Specialized infrastructure

### Article 87

(1) The infrastructure capacities shall be considered to be freely usable for all types of services, if they fulfill the characteristics required for train traffic on the relevant route.

(2) Notwithstanding paragraph (1) of this article, if there are alternative routes the infrastructure manager can, after reconciling the interested parties, determine that a particular segment of the infrastructure will be used for particular types of transport.

(3) The manager of the infrastructure, when awarding the infrastructure capacities, can assign priorities for the events stipulated in paragraph (2) of this article, respecting the principles of transparency and non-discrimination.

(4) The awarding of specialized infrastructure should not preclude the use of this infrastructure by other types of transport when the capacity is uncommitted and when the railroad vehicles fulfill the technical characteristics required for transport on that particular section.

(5) When the railroad infrastructure is awarded in accordance with paragraph (2), (3) and (4) of this article, this should be described in the Bulletin of the Network.

### 13. Analysis of capacities Article 88

(1) The analysis of the capacities shall determine the limitations of the infrastructure. The analysis should identify the reasons for congestion of the infrastructure as well as envisage measures that will have to be undertaken in the short and long term in order to mitigate or completely remove the congestion and the analysis should propose methods that will facilitate the fulfillment of the additional requests.

(2) The analysis should take into account the infrastructure, the operations, the various types of services and their overall influence on the infrastructure capacities. The measures stipulated in paragraph (1) of this article include reassignment of routes, determination of periods when the services can be performed, modification of the maximal speed on the railroad, and overall improvement of the infrastructure.

(3) The analysis of the capacities should be completed within six months after the day when the infrastructure manager determined that the infrastructure is congested.

### 14. Plan for strengthening the capacities Article 89

(1) Within six months after the completion of the analysis of the capacities, the manager of the infrastructure shall prepare a plan for strengthening the capacities, after consultations with the users of the relevant congested infrastructure.

(2) The plan for strengthening stipulated in paragraph (1) of this article shall contain the following elements:

- Reasons for congestion,
- Forecasts for traffic development,
- Restrictions on the infrastructure development and
- Options and costs for strengthening the capacities, including the possible changes of the track access charge.

(3) The plan for strengthening stipulated in paragraph (1) of this article, on the basis of an analysis of the revenues and costs related to the possible measures that should be identified, shall specify an action plan that should be implemented in order to strengthen the infrastructure capacity as well as a time schedule for implementing these measures.

(4) The strengthening plan stipulated in paragraph (1) of this article shall be determined by the management authority of the infrastructure manager.

(5) The manager of the infrastructure shall stop collecting all charges payable for a particular infrastructure in accordance with article 70, paragraph (4) of this law, in the following cases:

- When there is no plan for strengthening the capacities or

- When there is no progress in the action plan which is an integral part of the plan for strengthening the capacities.

(6) Notwithstanding paragraph (5) of this article, the manager of the infrastructure can continue to collect the charges stipulated in article 70, paragraph (4) of this law with an approval from the Agency if:

- The plan for strengthening the capacities cannot be realized due to objective reasons, i.e. reasons beyond the control of the manager of the infrastructure or
- The available solutions are not economically or financially sustainable.

## 15. Utilization of train routes

### Article 90

(1) The manager of the infrastructure shall cancel an awarded train route if, in a period of one month, that route was utilized less than the threshold quota published in the Bulletin of the Network, unless this happened due to non-economic reasons of an objective nature and beyond the control of the carrier, in particular in the event when the infrastructure is congested.

(2) The manager of the infrastructure shall determine the threshold quota stipulated in paragraph (1) of this article, in the event when the infrastructure is congested, taking into account the previous utilization level of the route, in order to determine the priorities to be assigned in the procedure for awarding infrastructure capacities.

## 16. Awarding infrastructure capacities intended for maintaining the railroad infrastructure

### Article 91

(1) The application and the awarding to infrastructure capacities for reconstruction, overhaul and maintenance of the railroad infrastructure shall be an integral part of the procedure for awarding infrastructure capacities.

(2) The manager of the infrastructure shall take into account the consequences from awarding infrastructure capacities for reconstruction, overhaul and maintenance of the infrastructure with respect to the capacities requested by the applicants.

## 17. Special measures undertaken in the event of traffic disruption

### Article 92

(1) In the event of disruption of railroad traffic caused by technical defects, serious accident, accident or incident, the manager of the infrastructure shall undertake all necessary measures to reestablish regular traffic conditions in the shortest possible time period.

(2) The manager of the infrastructure shall prepare a backup plan stipulating all the authorities and institutions that will have to be informed in the event of a serious accident, accident or an incident or serious disruptions of the train traffic.

(3) In case of an emergency when the railroad infrastructure cannot be used, the manager of the infrastructure can call off the use of train routes for a certain time period necessary to repair the infrastructure without previous notification to the carrier.

(4) If the manager of the infrastructure deems that it is necessary, it may require the carriers to make available such resources as the manager deems are most appropriate, in order to normalize the traffic conditions in the shortest possible period of time.

(5) Upon a request from the Administration, the carriers shall get involved in the implementation, monitoring and fulfillment of their safety standards and rules.

## 18. Timetable

#### Article 93

- (1) The manager of the infrastructure shall enact the timetable once per year.
- (2) The timetable shall be determined on the basis of the contract for utilization of the infrastructure signed between the manager of the infrastructure and the transporters.
- (3) The timetable shall change on midnight of the second Saturday in the month of December. If there are changes or adjustments after the end of the winter period in the passenger traffic, the change shall occur on midnight of the second Saturday in the month of June every year as well as between these two specified time periods, if there is a need.
- (4) The manager of the infrastructure and the carriers, shall perform the traffic and the transport in accordance with the specified timetable.
- (5) The timetable, the changes and additions to the timetable for public passenger transport shall be published on the WEB site of the manager of the infrastructure, in at least two daily newspapers and shall be presented on visible locations in the train stations and in other usual ways not later than seven days before the start of the validity of the timetable.
- (6) The procedure as well as the technical norms for the preparation of the timetable shall be prescribed by the minister managing the state administration authority responsible for matters in the area of railroad traffic and railroad infrastructure.

#### X. AGENCY FOR REGULATING THE RAILWAY SECTOR

#### Article 94

- (1) For the provision of transparent and non-discriminatory work of the manager of the infrastructure, the carriers, the bodies and the institutions related to the work of the railway as well as other participants that provide railway services in the public railroad transport, an Agency for regulating the railway sector shall be established.
- (2) The agency shall be independent from the competent authorities stipulated in article 5, paragraph (3) of this law.

#### Article 95

- (1) The agency shall be established as an independent and a non-profitable legal entity with public authorities determined with this law.
- (2) The headquarters of the agency shall be in Skopje.
- (3) The work of the agency shall be public.
- (4) The agency shall acquire a status of a legal entity by registering in the Central Registry of the Republic of Macedonia.
- (5) The agency shall have a Statute. The Statute of the agency shall regulate issues of importance for the operations and the work of the Agency, the material and other rights and responsibilities of the members of the Management Board as well as the employees in the Agency.
- (6) The Statute shall be prepared by the Management Board of the Agency. The Statute of the Agency shall be agreed by the Government of the Republic of Macedonia.

#### Article 96

The agency shall be accountable for its work before the Parliament of the Republic of Macedonia

#### Article 97

- (1) The Agency shall be responsible for the following:
- Quality control of the railway services provided by the transporters and the infrastructure managers;
  - Undertaking necessary measures to ensure that rights of passengers are respected;
  - Ensure that the infrastructure access charge determined by the manager of the infrastructure is non-discriminatory, in accordance with this law;
  - Undertake measures for prevention of unfair and discriminatory behavior of the manager of the infrastructure and every carrier or applicant for infrastructure capacities;
  - Undertake measures for prevention of unfair and discriminatory behavior between two or more carriers when providing railway transport services;
  - Undertake measures for prevention of unfair and discriminatory application of the Bulletin of the Network and the framework agreements;
  - Approve the collection of the congested infrastructure charge, if the plan for strengthening the capacities cannot be implemented or the offered solutions are not economical or financially feasible;
  - Control the access and use of the structures and stable facilities not managed by the infrastructure manager, which are regulated with the contract signed between a service provider and one or more transporters;
  - Keep a register of issued, annulled, withdrawn licenses for public railway transport issued to transporters and licenses for management of the railway infrastructure issued to a infrastructure managers;
  - Monitor the railway market, in order to analyze the competition between the various types of transport and
  - Monitor the competition on the market of railway services, including the market for railroad transport of goods.
- (2) The Agency shall be authorized to ask for additional data, information and other documentation from the manager of the infrastructure, the transporter or third interested parties, necessary for disclosing matters under the competence of the Agency on the basis of this law or other regulations that regulate the railroad transport.
- (3) The entities stipulated in paragraph (2) of this article shall be obligated to respond to the request of the Agency and submit the requested data, information or other documentation without delay.
- (4) If the applicants and the manager of the infrastructure are negotiating about the level of the infrastructure access charge, these negotiations should take place under the supervision of the Agency and the Agency shall intervene only if the negotiations between the applicants and the manager of the infrastructure are not in accordance with this law.

#### Article 98

The agency shall exchange information about its work and the principles of decision making and its practices for the purpose of harmonizing the decision making principles with other foreign regulatory bodies.

#### 1. Appeals procedure Article 99

- (1) The applicant shall have the right to lodge an appeal to the Agency, if the applicant thinks that it has been treated unfairly, has been discriminated or otherwise damaged and does not agree with the decision made by the manager of the infrastructure regarding the following:
- Bulletin of the network;
  - The criteria contained in the bulletin;

- The procedure and the process of allocation of infrastructural capacities and results from the process;
- Collection plan;
- The level or the structure of the payable infrastructure access charge and
- The contracts for access in accordance with article 65 of this law.

(2) The agency, in the appeals procedure, shall have the authority to ask for necessary information from the manager of the infrastructure, the applicants and all involved third parties involved in the procedure. This information has to be submitted without delay.

(3) The appeal stipulated in paragraph (1) of this article can be filed within eight days from the day when the act from the manager of the infrastructure was received.

(4) The agency shall decide on the appeal within 15 days from the day when all the necessary information have been submitted and shall enact a decision.

(5) In the event of an appeal against the refusal to award infrastructure capacities or against the conditions for awarding infrastructure capacities, the Agency shall either confirm that there is no need to change the decision of the manager of the infrastructure or shall ask for the decision to be changed in accordance with the guidelines provided by the Agency.

(6) The decision stipulated in paragraph (4) of this article shall be binding for all parties.

(7) Against the decision stipulated in paragraph (4) of this article, a complaint can be filed before the Administrative Court of the Republic of Macedonia within 30 days from the day when the decision was received.

## 2. Authorities of the agency

### Article 100

The authorities of the Agency shall be: the Management Board and the Director of the Agency.

## 3. Management Board of the Agency

### Article 101

(1) The Management Board shall comprise three members, of which one shall be selected president of the Management Board.

(2) The work of the management board shall be managed by the president of the management Board.

(3) The president and the members of the Management Board shall be appointed by the Parliament of the Republic of Macedonia, upon a proposal from the Commission for matters regarding elections and appointments by the Parliament of the Republic of Macedonia, with a term of office of four years, and with a possibility for one more term.

(4) The president and the members of the Management Board shall be people that are citizens of the Republic of Macedonia, have a permanent residence in the Republic of Macedonia, have completed university education in the area of technical, legal or economic sciences, have a working experience of more than five years in the area of railroad transport and infrastructure and actively know at least one foreign language.

(5) The president and the members of the Management Board shall be appointed at least 60 days before the expiration of the term of office.

(6) For the duration of the term of office, the following persons cannot be appointed to the function of the president and the members of the Management Board: members of Parliament of the Republic of Macedonia, members of the Government of the Republic of Macedonia, persons that perform duties in the authorities and bodies of political parties, members of management and

supervisory boards of public enterprises or members of other types of associations of legal and natural persons that could be in a situation of conflict of interests.

(7) The president, a member of the Management Board, his/her spouse, as well as close relatives in a straight line to the second degree, cannot have shares or parts, directly or indirectly in the organization that perform activities which are under the direct competence of the Agency.

(8) If the procedure for appointment has not been completed before the expiration of the term of office of the president and the members of the Management Board whose term of office has expired, the president and the members of the Management Board shall continue to perform their function for at most six months.

(9) The president and the members of the Management Board shall be entitled to a monthly fee and reimbursement of other costs specified in the Statute of the Agency.

(10) The funds for the fee and other costs incurred by the president and the members of the Management Board shall be provided from the funds of the Agency, determined with the annual financial plan.

(11) Persons employed in other legal entities can be appointed to the function president or member of the Management Board, except if this will lead to a conflict of interest in accordance with this law.

#### 4. Method of work and decision making of the Management Board

##### Article 102

(1) The Management Boards shall decide on sessions. The sessions shall be convened by the president of the Management Board.

(2) The sessions of the Management Board shall be public. Notwithstanding, the Management Board can decide whether the session or discussion about a particular item shall be closed to the public.

(3) The decisions of the Management Board shall be enacted by a majority vote from the total number of members of the Management Board.

#### 5. Competences of the Management Board

##### Article 103

The Management Board shall have the following competences:

- Enact of the Statute,
- Enact the annual program for work and development of the Agency;
- Enact the annual financial plan of the Agency;
- Approve the financial report with the final financial statement of the Agency;
- Approve the report about the realization of the annual program for work and development of the Agency;
- Enact the general acts for organization and systematization of the work of the Agency;
- Decides on appeals;
- Cooperate with other state authorities and institutions, authorities of the units of the local self government;
- Submit reports, recommendations, and proposals to the Parliament of the Republic of Macedonia and other state authorities and institutions in the area of railway traffic;
- Enact other acts of the Agency and
- Perform other matters specified with the Statute and this law.

#### 6. Dismissal of the president and the members of the Management Board

##### Article 104

(1) The parliament of the Republic of Macedonia, upon a proposal from the Commission for matters regarding elections and appointments by the Parliament of the Republic of Macedonia may dismiss the president and the members of the Management Board before the expiration of their term for the following reasons:

- Upon his/her request
- In case of incapacitation to perform the function due to an illness, for period longer than six months or death;
- Acceptance of a function or job which is incompatible with the function member of the Management Board;
- if the person has been convicted with a legally effective judgment for a crime punishable with imprisonment for a duration of more than six months or with a ban to perform a profession, duty or occupation on the day of pronouncement of the sentence for the time period while the person is performing the function;
- violation of the provisions or regulations enacted on the basis of this law or an abuse of the function;
- an unjustified absence on three consecutive sessions or five sessions during the current year.

(2) A failure to submit an annual report for the work and development of the Agency, as well as the annual financial report to the Parliament of the Republic of Macedonia shall be a reason for collective dismissal of the members of the Management Board.

(3) If there is any reason to dismiss a member of the Management Board of the Agency before the expiration of the term of office for which he/she was appointed, the Management Board of the Agency should inform the Commission for matters regarding elections and appointments by the Parliament of the Republic of Macedonia thereof within seven days from the day when it found out about the reason.

#### 7. Director of the Agency and conditions which the director must fulfill Article 105

(1) The work of the agency shall be managed by a Director.

(2) The director shall be appointed by the Management Board of the Agency by way of a public competition.

(3) The term of the director shall be five years with the possibility of having one more consecutive term.

(4) The director must be a citizen of the Republic of Macedonia, to have completed university education in the area of technical, legal or economic sciences, with a working experience of over five years in the area of railroad transport or infrastructure and at least three years of working experience on a managerial position and active knowledge of at least one foreign language.

(5) The management board shall be obligated to appoint the director not later than 30 days before the expiration of the term of his/her predecessors.

(6) The director, his/her spouse or unwed partner, as well as the close relatives in the straight line to the second degree, may not have shares, directly or indirectly in the organization which performs activities which fall directly under the competences of the Agency.

(7) The director shall be professional engaged by the Agency full time.

#### 8. Competences of the director Article 106

(1) The director shall manage the work of the Agency and shall be responsible for the legal operation of the agency and shall have the following competences:

- represent the Agency;
- organize the work and manage the administrative offices of the Agency;
- propose the annual program for work and development, the annual financial plan of the Agency, prepare financial reports with the final financial statement and a report on the realization of the annual program for work and development of the Agency;
- propose general acts for organization and systematization of the work of the Agency;
- propose acts to be enacted by the Management Board;
- execute the decisions enacted by the Management Board;
- grant authorities within the framework of his/her competences;
- enact decisions in the appeals procedure;
- cooperate with other state authorities and institutions, authorities of the units of the local self government and non-governmental organizations and associations of citizens and
- perform other matters determined by this law or the Statute of the Agency.

(2) The director of the Agency shall be obligated to establish a system of internal control by implementing an appropriate financial management and control system and internal audit in accordance with the Law on the Public Financial Control.

(3) The director shall have the right to attend and participate in the meetings of the Management Board, without a right to vote.

(4) The director may resign his/her functions by submitting a written letter of resignation to the Management Board.

(5) If the term of office of the director has expired, and the procedure for appointment of a director has not been completed, the director shall continue to perform the functions until the appointment of the new director, but not for a period longer than six months.

## 9. Dismissal of the director

### Article 107

The director may be dismissed by the Management Board before the expiration of his/her term in the following cases:

- Upon his/her request
- In case of incapacitation to perform the function due to an illness, for period longer than six months or death;
- Acceptance of a function or job which is incompatible with his/her function of a director,
- if the person has been convicted with a legally effective judgment for a crime punishable with imprisonment for a duration of more than six months or with a ban to perform a profession, duty or operation on the day of pronouncement of the sentence for the time period while the person is performing the function; and
- violation of the provisions or regulations enacted on the basis of this law or an abuse of the function.

## 10. Funds for the operations of the Agency

### Article 108

(1) The funds for the work of the Agency shall be provided from the following sources:

- Annual fee for regulating the market of railway services,
- Own funds,
- Donations, loans and
- Other funds.

(2) The managers of the infrastructure and the transporters, as participants in the market of railway services, shall pay to the Agency an annual fee for regulating the market of railway services.

(3) The annual fee stipulated in paragraph (2) of this article shall represent a sum from the fee for regulating the market of railway services paid by all infrastructure managers and all transporters.

(4) The basis for calculating the annual fee stipulated in paragraph (2) of this article shall be 1.5% of the collected annual infrastructure access charge, which the managers of the infrastructure collect from the carriers for the minimal packet of services and the railroad access to the service facilities.

(5) Regarding the collected annual infrastructure access charge, which the managers of the infrastructure collect from the carriers for the minimal packet of services and the railroad access to the service facilities, the managers of the infrastructure shall submit to the Agency reports for each carrier separately, not later than the 5<sup>th</sup> of March each year.

(6) The annual fee stipulated in paragraph (2) of this article paid by the managers of the infrastructure shall amount to 30% of the amount stipulated in paragraph (4) of this article. Each infrastructure manager shall pay a fee proportional to their share in the total collected revenues from the infrastructure access charge for the minimal packet of services and the railroad access to the service facilities.

(7) The annual fee stipulated in paragraph (2) of this article paid by the transporters shall amount to 70% of the amount stipulated in paragraph (4) of this article. Every transporter that participates in the market of railway services shall pay a fee proportional of their share in the total cost incurred for the railway infrastructure access charge in the Republic of Macedonia for the minimal packet of services and the railroad access to the service structures.

(8) The managers of the infrastructure and the transporters shall be obligated to pay the fee stipulated in paragraph (2) of this article twice per year, not later than the 31<sup>st</sup> of March and the 30<sup>th</sup> of September of each year.

(9) The annual fee stipulated in paragraph (2) of this article shall be paid to the account of the Agency and shall be used by the Agency to perform the activities stipulated in this law.

#### Article 109

(1) The annual program for work and development of the Agency and the annual financial plan shall be enacted by the Management Board no later than the end of January every year.

(2) The annual financial report with the final financial statement and the report about the work of the Agency shall be enacted by the Management Board of the Agency no later than the end of March every year, and they shall refer to the previous year.

(3) The Parliament of the Republic of Macedonia shall provide its agreement to the annual program for work and development of the Agency, the annual financial plan and the annual financial report for the realization of the annual program for work and development of the Agency.

(4) The annual financial report shall contain the final financial statement as well as an audit and financial report for the previous year. The audit report shall be prepared by an external and independent auditor, selected in accordance with the Law on Public Procurement.

(5) Upon a request from the Parliament of the Republic of Macedonia, the Agency shall be obligated to submit a report about the work and development of the Agency and a financial report about the work of the Agency covering a period shorter than one year.

#### 11. Organization and employment in the Agency Article 110

- (1) The professional matters in the Agency shall be performed by persons employed in the Agency.
- (2) The internal organization and the method of work of the administrative office shall be specified in detail in the act for organization and systematization of the work and assignments of the Agency.
- (3) The Statute of the Agency shall determine in detail the procedure and the method of internal organization and work of the Agency.
- (4) The president and the members of the Management Board of the Agency, the director and the employees in the Agency shall be obligated to keep confidential all the documents and information they will come across while performing their work and duty, if the disclosure of such information by an authorized person may damage the reputation and the interests of the Agency.

## 12. Supervision over the legality of the work of the Agency

### Article 111

- (1) The supervision over the legality of the work of the Agency and the general acts shall be performed by the state administration authority responsible for matters in the area of railways and railroad traffic.
- (2) The supervision over the financial operation of the Agency shall be performed by the competent authority of the state administration, or the legal entity that has the proper public authority for that.

## XI. CONCESSION

### Article 112

- (1) A concession may be issued for the following purposes:
  1. Construction of a new railway infrastructure;
  2. Managing of a part of or the entire railway infrastructure according to this Law.
- (2) The concession for management of a part of the railway infrastructure shall be awarded upon a proposal from the Minister managing the state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure or upon a proposal from the manager of the infrastructure approved by the Minister managing the state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure when such concession is justified.
- (3) The concession can be awarded to a domestic or foreign legal entity or natural persons (concessionaire) that own capital and have staff potential and equipment for successful performance of the works subject to the concession.
- (4) In order to be able to obtain the concession stipulated in paragraph (1), item 2 of this article, the applicant for the concession shall possess a license for managing the railway infrastructure and a safety certificate.
- (5) The procedure for awarding the concession stipulated in paragraph (1) of this article shall be implemented in accordance with the Law on Concession and other forms of public private partnerships.

(6) A fee shall be payable for the awarded concession, in the amount and in a manner specified in accordance with the Law on Concessions and other forms of public private partnerships.

#### Article 113

(1) The concession for construction of a new railway infrastructure shall be awarded for a period that cannot be longer than 50 years from the day when the concession was awarded.

(2) The concession for the management of a part of the existing infrastructure shall be awarded for a period that cannot be longer than 20 years from the day when the concession was awarded.

#### Article 114

(1) The mutual rights and obligations of the Government of the Republic of Macedonia and the concessionaires shall be determined by a contract for concession.

(2) The contract stipulated under paragraph (1) of this article, shall also determine the conditions under which the concession is used, the method of payment of the fee, as well as its amount.

#### Article 115

The concessionaire shall be obligated to design, construct and put into operation the railroad or any structure on the railroad, i.e. use it in accordance with the regulations, norms and standards for this type of structures in the Republic of Macedonia.

#### Article 116

The rights and responsibilities specified by this law and the regulations passed on the bases of this law with respect to the maintenance, protection and supervision of the railway infrastructure and the implementation of the safety measures of the railway traffic, shall also apply to the concessionaire.

#### Article 117

The concession shall be terminated in a manner and under conditions stipulated in the Law on Concession and other forms of public private partnership as well as the conditions stipulated in the concession contract.

## XII. FINANCING OF THE RAILROAD INFRASTRUCTURE

#### Article 118

(1) The financing of the railroad infrastructure shall be performed in accordance with the annual program stipulated in article 26, paragraph (4) of this law.

(2) The funds for financing of the construction of the railway infrastructure shall be provided from:

1. The Budget of the Republic of Macedonia
2. Credits and loans and
3. Other sources

(3) The funds for financing the existing railroad infrastructure shall be provided from:

1. Railroad infrastructure access charge;
2. Funds provided from the budget of the Republic of Macedonia in the amount of at least 0.3% of the planned tax revenues in the central Budget of the Republic of Macedonia for the current year;
3. The budgets of the units of the local self government pertaining to the financing of services of public interest in the railway infrastructure;
4. Part of the funds from investments of domestic and foreign entities or persons and
5. Funds from other sources.

(4) The purpose and the method of use of the Budget funds stipulated in paragraphs (2) and (3) of this article shall be determined in the Annual program for financing the railroad infrastructure stipulated in article 26, paragraph (4) of this law.

### XIII. SERVICES OF PUBLIC INTEREST IN THE RAILROAD PASSENGER TRANSPORT

#### 1. Authorities responsible for organizing services of public interest

##### Article 119

(1) In order to achieve public interest in the railway transportation of passengers in the Republic of Macedonia where the collected revenues cannot cover the costs, as well as to increase the ability of the railway transporters to be competitive with other types of transport, the Government of the Republic of Macedonia shall, upon a proposal from the Minister managing the state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure, specify such services.

(2) For the achievement of the public interest stipulated in paragraph 1 of this article in the areas of local self governments, the councils of the units of local self government may determine such services, and inform the state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure thereof.

(3) The funds for the purposes stipulated 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 Units of Local Self Government according to the following criteria:

- Existence of a public interest
- Availability of another type of transport
- Determined policy regarding the prices for tickets for passenger railway transport
- Investments in the safety of railway traffic.

(4) The services of public interest in the railroad passenger transport shall not refer to the services performed from historical interest or tourist value.

##### Article 120

(1) The state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure shall select the transporter that will perform the services stipulated in article 119 of this law, in accordance with this and other laws.

(2) The selected transporter shall sign a contract for a period of at least five years with the Government of the Republic of Macedonia or the mayors of the municipalities or the mayor of the city of Skopje. The contract shall stipulate a compensation for the selected transporter based on calculations specified in the contract.

##### Article 121

The funds for the compensation of part of the costs to the railway transporters, stipulated in article 120 of this Law, shall be provided from the Budget of the Republic of Macedonia or the Budgets of the units of the local self government.

### XIV . DUTIES OF THE STRIKE BOARD AND THE WORKERS DURING STRIKE

##### Article 122

(1) In the legal entity that performs public transport and the legal entity that is manager of the infrastructure, during strike, the strike board and the workers that participate in the strike shall be obligated to secure a required level of the work process that will not jeopardize the life, health,

economic and social security of the citizens and the necessary performance of the economic and other activities in the Republic of Macedonia, i.e. during strike the following trains must be operational:

- trains that transport animals;
- trains that transport fresh products;
- trains that transport hazardous material and objects;
- trains that are engaged in international traffic
- trains that transport raw material and fuel material necessary for the performance of the economic and other activities in the country;
- a pair of trains engaged in local passenger traffic for each train route.

(2) The strike board and the head of the infrastructure manager and the head of the transporter shall specify which workers will perform the activities stipulated in paragraph (1) of this article.

(3) Failure to secure the necessary level of the work process, within the meaning of this law shall represent a severe violation of the working obligations.

## XV. SUPERVISION

### 1. Supervision of the legality

#### Article 123

The state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure shall supervise the legality of the implementation of this law and the regulations enacted on the basis of this law.

### 2. Inspection supervision

#### Article 124

(1) The administration for safety of the railway system shall perform inspection supervision of the implementation of the provisions of this law and the regulations enacted on the basis of this law through inspector for safety of the railroad infrastructure, safety of passenger and goods transport by railroad and safety of the signaling and safety communication systems and electrical and technical devices (hereinafter in the text: inspectors).

(2) The conditions for appointment of the inspectors stipulated in paragraph (1) of this article shall be prescribed in the Law on Safety of the Railroad System.

#### Article 125

(1) The transporter and the manager of the infrastructure shall be obligated to allow the inspectors to perform their inspection supervision without any interference, to provide the inspectors with necessary explanations and to allow the inspectors to review the documentation required for the inspection supervision.

(2) The legal entities and the natural persons which construct or perform other activities on the railroad and in close proximity to the railroad shall be obligated to allow the inspectors to perform their inspection supervision, to provide the inspector with the necessary explanations and to allow the inspectors to review the required technical documentation.

#### Article 126

(1) The inspectors stipulated in article 124 of this law, supervise the following:

- enforcement of the provisions stipulated in this law and in the secondary legislation derived from this law;

- the organization of the railroad system;
- railroad transport;
- railway infrastructure (construction, reconstruction, overhaul, maintenance and protection) and
- industrial railways and industrial gages.

(2) For the misdemeanors envisaged with this law, the inspectors stipulated in article 124 of this law shall file a request against the perpetrator for instigating a misdemeanor procedure before a competent court.

#### Article 127

(1) The inspector shall be authorized to do the following:

- Order stopping of the works that are being performed on the railroad and in the protection area of the railroad, if it is determined that there is a risk that these works may jeopardize the safety of railroad traffic;
- Order the stopping of the works that are being performed in the protection zone of the railroad, if these works are being performed without an approval for construction;
- To review the technical documentation concerning the construction, reconstruction, overhaul and maintenance of the railroads;
- To inspect the works related to the construction, reconstruction, overhaul, maintenance and protection of the railroads and of the structures on the railroads;
- To order demolition of a structure or part of a structure that is constructed in the protection area, contrary to this Law;
- To verify the compliance with the conditions for managing the railway infrastructure and
- To verify if the specified and published time table for the railway traffic, is being properly implemented.

(2) If the railroad is not in a condition which provides for safe railway traffic, the railway inspector shall order immediate measures to be undertaken in order to increase the traffic safety and if it is necessary the inspector shall temporarily ban the traffic on the railroad, i.e. on the threatened section of the railroad.

#### Article 128

(1) The inspectors stipulated in article 124 of this law, shall perform the inspection supervision independently and shall enact decisions within the framework of the authorizations determined with this law.

(2) An appeal against the resolution of the inspector may be filed to the Minister managing the state administration authority responsible for matters in the area of the railway traffic and the railroad infrastructure within eight days from the day when the resolution has been received.

(3) The appeal stipulated in paragraph (2) of this article shall not delay the enforcement of the decision, if the decision requires urgency of the measures stipulated therein.

### XVI. MISDEMEANOR PROVISIONS

#### Article 129

(1) A fine in the amount of the MKD equivalent of 3,000 to 5,000 EUR shall be imposed for a misdemeanor against a legal entity, if:

- If it performs public transportation of passengers and goods without a license for public railway transportation (article 15);

- If it performs public transportation of passengers or goods without a safety certificate for public railroad transport (article 19);
- If it performs transportation for its own purposes without a safety certificate (article 20);
- If it manages the railroad infrastructure without a license for managing the railroad infrastructure (article 21);
- If it manager the railroad infrastructure without a safety certificate (article 22);
- If it designs, constructs, overhauls and equips the railway infrastructure in a way which is not consistent with the requirements related to safety of traffic and environmental protection (article 27, paragraph (3));
- If it connects another railroad to a railroad or to an open railroad contrary to article 37, paragraph (1) of this law;
- If it connects a railroad to an open main railroad, the separation switch is not constructed with a protection gage or is not equipped with signals and fore-signals (article 37, paragraph (2));
- If it fails to provide for a railway worker to be present on the separation switch (article 37, paragraph (3));
- If, on a joint bridge, it fails to separate the railroad from the public road by a security fence (article 38);
- If it constructs in the railroad protection zone (article 39, paragraph (1));
- If it fails to provide for the prescribed distance between the railroad and the road or if it fails to place security fences along the road (article 39, paragraphs (3), (4) and (5));
- If it incorporates in the railroad: devices, facilities or equipment without having a document of compliance (article 43, paragraph (2));
- If it constructs or maintains the system of communications contrary to article 44 paragraph (1) of this law;
- If it electrifies a railroad contrary to article 50, paragraph (1) and (2) of this law;
- If it fails to implement appropriate protection measures on locations along the railroad where the contact network is powered and where there is a risk for the life of people (article 51, paragraph (1));
- If it fails to implement appropriate safety measures for protection of the facilities and devices close to the contact network against electrical interference (article 51, paragraph (2));
- If it places in the railroad protection zone: telephone, telegraph or other cable ducts, low voltage electric ducts, supply ducts, waste water pipelines, water supply pipelines, thermal water pipelines and other similar facilities without an agreement issued by the manager of the infrastructure (article 57, paragraph (1));
- If it performs public transportation on the railroad infrastructure without having provided access to that infrastructure (article 65, paragraph (1));
- If it transfers the awarded infrastructure capacity to another transporter or service provider (article 76, paragraph (2)),
- If it trades infrastructure capacities (article 76, paragraph (3));
- If it performs the transport contrary to the established timetable (article 93, paragraph (4)) and
- If it fails to publish the timetable, the changes to the timetable on the website of the manager of the infrastructure, in at least two daily newspapers and if it fails to present it in visible locations in the train stations within the specified time period (article 94, paragraph 95)).

(2) For the misdemeanor stipulated in paragraph (1) of this article a fine in the amount of the MKD equivalent of 1,500 to 2,000 EUR shall be imposed against the responsible person within the legal entity.

#### Article 130

(1) A fine in the amount of the MKD equivalent of 2,000 to 3,000 EUR shall be imposed for a misdemeanor against a legal entity, if:

- If it fails to publish the income statement, balance sheet (article 6, paragraph (2) and (3) and article 9, paragraph (3) and (8));
- Within the established deadline it fails to report any status changes, changed of facts and circumstance of significance for the performance of the activity (article 17, paragraph (9));
- If it puts into operation a railroad or a facility, structure or device on the railroad without a decision for use (article 32 paragraph (3));
- If it performs works related to overhauling the railroad without technical documentation and agreement to the technical documentation (article 33, paragraph (1) and (2));
- If the crossing of the railroads and the crossing of a railroad with a different type of railroad (industrial railroad, industrial gage, tram rails etc.) is performed contrary to the article 34 of this Law;
- If in the railroad zone, it places pipelines, electric and other aerial ducts, underground cables and other similar installations without the agreement from the manager of the infrastructure, as well as if it allows that such installations cross the path of the railroad or are parallel to the railroad, if the placement and operation of such installations threatens the safety and security of the railroad transport (article 41);
- If, while performing railroad traffic, it applies railroad traffic signals and signs contrary to article 45 of this law;
- If the system of signalization and signs does not correspond to the organization and the process of operation and does not fulfill the traffic safety requirements (article 46, paragraph (1));
- If it fails to mark the temporary dangers with appropriate signals and signs or if such signals and signs not removed after the reasons for which they were placed had ceased to exist (article 47);
- If the railroads are not equipped with the prescribed signs and signals in accordance with article, 48 paragraph (1) of this law;
- If the signals and signs do not correspond to the prescribed conditions (article 48, paragraph (2));
- If it fails to perform the railroad traffic in accordance with the prescribed signals and signs (article 48, paragraph (4));
- If it fails to remove and replace the damaged and worn out signals and signs, and if it fails to place additional signs and signals if the circumstances on the railroad have changed (article 48, paragraph (5));
- If it fails to mark the train in accordance with article 49 of this law;
- If it fails to maintain the railroad infrastructure in such a way as to ensure safe traffic (article 52, paragraph (1));
- If it does not protect the railroad, structures, the devices, facilities and equipment in accordance with the provisions of this Law (article 56 paragraph (1)) and
- If it does not undertake the necessary measures for the physical and technical protection of the railway and the structures on the railway (article 60, paragraph (1));

(2) For the misdemeanor stipulated in paragraph (1) of this article a fine in the amount of the MKD equivalent of 800 to 1,500 EUR shall be imposed against the responsible person in the legal entity.

#### Article 131

(1) A fine in the amount of the MKD equivalent of 1,000 to 2,000 EUR shall be imposed for a misdemeanor against a legal entity if:

- If it fails to keep records and other technical data of significance for the safety of the railroad traffic (article 29, paragraph (4));
- During construction or reconstruction of the railroad, the investor fails to dislocate or adapt the installations to the new changes (article 31, paragraph (1));
- If it fails to notify the owners of the installations about the commencement of the works within the established deadline (article 31, paragraph (2));
- If it fails to provide the owners of the installations with the possibility to review the documentation necessary for dislocation of the installations (article 31, paragraph (3));
- If it plants trees, constructs buildings and other facilities in the railroad zone, except facilities that serve the purposes of the manager of the infrastructure (article 40, paragraph (1))
- If the maintenance or the overhaul of the railroads is performed in a way is not conducive to a safe traffic (article 42, paragraph (2));
- After the completion of the works, it fails to remove the remaining material, tools, warning signs and other objects used to ensure safe traffic, from the railroad and the railroad zone (article 42, paragraph (3));
- If, during the construction or reconstruction of railroads, the electronic and communications network, or the electronic and communications infrastructure with all its auxiliary facilities are not constructed in accordance with the law (article 44, paragraph (2));
- The communication among the workers that directly regulate traffic is not recorder (article 44, paragraph (3));
- If it fails to place protective gates on a road crossing or if it fails to maintain those gates (article 50, paragraph (3) and (4));
- If it fails to post traffic signs prohibiting traffic of passenger vehicles or if it fails to maintain these signs (article 50, paragraph (5));
- If it fails to maintain the road passes when a railroad and a road intersect (article 53, paragraph (1) and (2));
- If it performs works or other activities in the railroad zone or the protection zone without an agreement (article 57, paragraph (1) );
- If it constructs buildings or places facilities and devices on the railroad without agreement (article 59, paragraph (1) and (2));
- If the manager of the infrastructure fails to remove the temporary protection devices, the material and other items and if it fails to pay the fee for utilizing the land (article 60, paragraph (3));
- If it fails to undertake measures for protection of the railroad zone against fire, as well as measures for protection of the railroad vehicles against fire (article 61, paragraph (1) and (2));
- When cleaning snow from overpasses over electrified electrical railroads, it fails to provide mechanical protection against the collapsing of the snow on the contact network, in accordance with article 62 of this law;
- If it fails to keep records (article 63, paragraph (1)) and
- If it fails to pass an act about the conditions for construction, reconstruction, maintenance and protection of industrial gages, railroad vehicles or an act for organizing and regulating railway traffic (article 64, paragraph (5)) and
- If it fails to allow the inspector to perform his/her inspection, fails to provide necessary explanations or fails to provide the inspector with an opportunity to

review the technical documentation required for the inspection (article 125, paragraph (1)).

(2) For the misdemeanor stipulated in paragraph (1) of this article a fine in the amount of the MKD equivalent of 500 to 1,000 EUR shall be imposed against the responsible person in the legal entity.

#### Article 132

A fine in the amount of the MKD equivalent of 500 to 700 EUR shall be imposed for a misdemeanor against a natural person if:

- The railroad workers fail to act in accordance with the warning signals and signs (article 48, paragraph (3));
- If it constructs buildings and structures or places facilities or devices in the railroad protection zone without an approval (article 59, paragraph (1) and (2) );
- If it fails to allow the inspector to perform his/her inspection, fails to provide necessary explanations or fails to provide the inspector with an opportunity to review the technical documentation required for the inspection (article 125, paragraph (2))

#### Article 133

(1) For the misdemeanors stipulated in article 129, 130, 131 and 132 of this law, before filing a request for instigation of a misdemeanor procedure before a competent court, the inspectors stipulated in article 124 of this law shall implement a settlement procedure. If the perpetrator admits to the misdemeanor, the inspector shall issue a payment order to the perpetrator for the purpose of payment of the fine envisaged for the misdemeanor. By signing the payment order the perpetrator of the misdemeanor shall be considered to have agreed to pay the envisaged fine.

(2) The perpetrator of misdemeanors stipulated in paragraph (1) of this article shall be obligated to pay the fine within eight days from the day when he/she received the payment order. The payment should be made to the account of the Budget of the Republic of Macedonia. The perpetrator that will pay the fine within the specified time period shall pay only half of the imposed fine specified in the payment order.

(3) If the perpetrator of the misdemeanor stipulated in paragraph (1) of this article does not pay the fine within the time period stipulated in paragraph (2) of this law, the inspector shall file a request for instigating a misdemeanor procedure before the competent court.

(4) The administration for safety of the railway system shall be obligated to keep records of the instigated settlement procedures as well as their outcome.

### XVII. TRANSITIONAL AND FINAL PROVISIONS

#### Article 134

The services of public interest in the railway passenger transport shall continue to be performed by "MR – Transport AD – Skopje" until its privatization and/or liberalization of the railroad transport of passengers in the Republic of Macedonia.

#### Article 135

MR Transport AD – Skopje shall be obligated to harmonize its operations with the provisions of this law within one year from the legal effectuation of this law.

#### Article 136

(1) The more detailed regulations specified in this law shall be enacted within six months from the day of legal effectuation of this law.

(2) The existing regulations shall apply until the day of legal effectuation of the regulations stipulated in paragraph (1) of this article.

#### Article 137

(1) The agency for regulating the market of railroad services shall continue to work as an Agency for regulating the railroad sector.

(2) The Agency for regulating the railroad sector shall be obligated, within three months from the day of legal effectuation of this law to harmonize its operations with the provisions of this law.

(3) The members of the Management Board of the Agency for regulating the market of railroad services shall continue to perform the function of members of the Management Board of the Agency for regulating the railroad sector until the expiration of the term of office for which they have been appointed before the legal effectuation of this law.

(4) The director of the Agency for regulating the market of railroad services shall continue to perform the function of the director of the Agency for regulating the railroad sector until the expiration of the term of office for which he/she had been appointed before the legal effectuation of this law.

#### Article 138

(1) On the day of legal effectuation of this law, the assets, the funds, the obligations and the entire documentation of the Agency for regulating the market of railroad services shall be transferred to the Agency for regulating the railroad sector.

(2) On the day of legal effectuation of this law, the employees in the Agency for regulating the market of railroad services shall continue to work in the Agency for regulating the railroad sector

#### Article 139

The provisions stipulated in article 19, paragraph (15) and article 22, paragraph (6) of this law shall apply from 01.01.2012.

#### Article 140

On the day of legal effectuation of this law, the Law on Railways ("Official Gazette of the Republic of Macedonia" no. 64/05 and 24/07) and the Law on the Agency for Regulating the Market of Railway Services ("Official Gazette of the Republic of Macedonia" no. 7/2008) shall cease to apply.

#### Article 141

This law shall enter into force on the eighth day from the day of publication in the "Official Gazette of the Republic of Macedonia".