NATIONAL AUDIT
OFFICE OF LITHUANIA
• BRINGING BENEFITS •

MANAGEMENT OF THE PUBLIC RAILWAY INFRASTRUCTURE

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SUMMARY

Importance of the audit

Effective public railway infrastructure is necessary for the fluent and safe mobility of both passenger and freight. Railway infrastructure refers to state property used for the transportation of passengers and freight by rail. The total length of railway tracks in Lithuania is 2,335.7 km. Most of the above (95 percent, or 2,220.5 km) are 1,520 mm gauge tracks which connect Baltic countries with the Commonwealth of Independent States, and 115.2 km (5 percent) are 1,435 mm gauge tracks which connect Lithuania with Poland, as well as other Western and Central European countries via Poland. Lithuanian railway lines contain 139 railway stations, 618 railway crossings, and 384 viaducts and bridges. According to non-audited data, in 2017 the residual value of railway infrastructure was 1,032.8 million EUR.

The Railway Infrastructure Directorate of JSC Lithuanian Railways was appointed as the manager of the public railway infrastructure. The Directorate is responsible for the monitoring, modernisation, and development of the public railway infrastructure in order to ensure the safety of Lithuanian railway traffic, the interoperability of the railway system, and non-discriminatory conditions for the use of public railway infrastructure.

The manager of the public railway infrastructure undertakes to manage, use, and dispose of the transferred state property in a careful manner, so as to ensure the pursuit of the public interest by formulating decisions related to the management, use, and disposal of said property in a way conducive to the achievement of maximum benefit to society[1]. Furthermore, the state has undertaken to [2] fund the manager of the public railway

[1] Article 9(1) and (2) of the Law on the Management, Use, and Disposal of State and Municipal Property.

[2] Article 23(13) and (16) of the Railway Transport Code.

infrastructure from the state budget, provided such is necessary for the manager to perform its functions.

The aim and scope of the audit

The aim of the audit was to assess the effectiveness of the public railway infrastructure management system, intended for meeting the needs of public and economic entities related to the transportation of passengers and freight by rail.

The audit was conducted in order to determine the following:

- the degree of assurance of the proper functioning of the public railway infrastructure;
- the accuracy of the calculation of a part of the payment for the minimum accessibility package, namely – the train traffic fee levelled on carriers;
- the provision of non-discriminatory conditions for the use of the public railway infrastructure;
- the balance between the income generated and the costs incurred by the manager of the public railway infrastructure during the management thereof.

Audit entities – the Ministry of Transport and Communications, as it is responsible for shaping public policy, controlling its implementation in the field of railway transport, and implementing the rights and duties of the owner of the public railway infrastructure; and JSC Lithuanian Railways, as it is responsible for implementing the functions of the manager of the public railway infrastructure. Information was collected from the Lithuanian Transport Safety Administration, responsible for the allocation of capacities, setting the fee for the minimum accessibility package, etc., and the following establishments responsible for implementing the functions of the regulators of the railway transportation market: the Competition Council (prior to 31 October 2016) and the Communications Regulatory Authority (from 01 November 2016).

Audited period – 2015-2017. In order to assess changes and to compare data, in some cases the auditors also relied on factual data of 2007-2014 and prospective data of 2018-2027.

The audit was carried out in accordance with the Public Auditing Requirements, and the International Standards of Supreme Audit Institutions. A more detailed description of the scope and methodology of the audit is provided in Annex No. 2 “Audit Scope and Methodology” (p. 38).

Main results of the audit

During the audit, the public railway infrastructure management system was deemed to be effective when:

- the state of the public railway infrastructure is compliant with project requirements[3];

[3] Technical Provisions for the Use of Railways approved by Order No. 297 of the Minister of Transport and Communications of 20 September 1996.

- non-discriminatory conditions for using the public railway infrastructure is provided to all railway freight and passenger carriers, and all capacities of said infrastructure are exploited to the fullest[4];
- the Ministry of Transport and Communications performs systematic analyses on the financial capabilities of the manager of said infrastructure, as well as the risks associated with the management of the transferred state property, and makes reasoned decisions regarding the use thereof[5];
- sufficient funding is ensured for the performance of the functions of the manager of said infrastructure[6].

During the audit, we have determined the effectiveness of the management and control, as well as the funding, of the public railway infrastructure to be lacking, which caused delays in major overhaul works. Moreover, the use of the capacities of the public railway infrastructure is flawed, and the property owned by the manager of said infrastructure should generate more income.

1. The accumulation of delayed major railway overhaul works

The funds allocated for upgrading the public railway infrastructure have covered less than half of the necessary funding, which has led to the occurrence of conditions conducive to the increase in delayed major overhaul works. The need for major overhauls which have been delayed rose by 55 percent over the span of 10 years across the entire railway network, constituting 702 km (30 percent) of all railway tracks in 2017 (Section 1, p. 13).

Delays in major overhauls result in the worsening of the condition of railway tracks, increased maintenance costs, reductions in the quality of transportation services, and may lead to additional costs for carriers due to reductions in the maximum authorised speed of trains (Section 1, p. 13).

Restoration of the condition of railways tracks by 2027 would require 794 million Eur. This aim requires the effective operation of the manager of the public railway infrastructure, necessary for the generation of optimum profits, and, given justified need – also assistance from the public budget (Section 1, p. 13).

2. The failure to separate railway service facilities from the overall railway infrastructure

The Ministry of Transport and Communications is responsible for the shaping, organisation, and coordination of public policy in the field of railway transportation, as well as controlling the implementation thereof, and for implementing the rights and duties of the owner of public railway infrastructure. However, since the Ministry had failed to the take actions necessary for the separation of railway service facilities from the public railway infrastructure, the manager of said infrastructure did not allocate operational costs in a correct way. The manager assigned the costs related to railway service facilities to the train

[4] Article 26 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area.

[5] Clause 13.1 of Contract No. 5-40/SK-354 of 12 December 2007, concluded between the Ministry of Transport and Communications and JSC Lithuanian Railways, regarding the transfer of the property of the public railway infrastructure under trust law, and the registration of said property in the Real Property Register.

[6] Article 8 of Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area.

traffic fee, rather than to payment for the services provided in said facilities, potentially resulting in the incorrect calculation of the train traffic fee during the validity period of the working timetable of 2017-2017 (Section 2, p. 19).

3. Shortcomings in the use of the capacities of the public railway infrastructure

The Passenger and Freight Transportation Directorates (carriers) of JSC Lithuanian Railways receive preferential treatment in terms of the opportunities for using the public railway infrastructure, because even though said Directorates do not pay any mandatory advance for the rights to use the aforementioned infrastructure, their rights to such use remain unaffected (Sub-section 3.1, p. 23).

Due to the specifics of the organisation and implementation of railway transportation, carriers fails to implement 39 percent of planned trips each month on average. For this reason, the manager of the public railway infrastructure fails to receive some of the planned income, because the current system designed for the allocation and use of capacities allows carriers to not only reserve planned capacities, but also to retain them even if the respective trips do not take place. The failure to ensure the control of both assigned and actually used capacities prevents other carriers from engaging capacities which are not in use (Sub-section 3.2, p. 25).

4. The property of the manager of the public infrastructure must generate more income

The manager of the public infrastructure is making no effort to generate any profit from 22 percent of the overall area of premises transferred to the structural divisions of JSC Lithuanian Railways. The rate charged for the use of transferred immovable property should correspond to market prices and generate economic benefits, yet the aforesaid divisions cover only the actual costs related to the operation of the transferred property (Sub-section 4.1, p. 28).

There are cases where decisions regarding buildings and structures of decommissioned railway stations are being made 13 years after the respective stations have been closed, which results in losses, i.e., costs related to the maintenance of such decommissioned buildings and structures, incurred by the manager of the public railway infrastructure (Sub-section 4.1, p. 28).

The manager of the public railway infrastructure provides services unrelated to its main activities (e.g., apartment rent and power and potable water supply services to residents) which generates over 370,000 Eur in losses to the directorate each year. The failure to terminate loss-making activities leads to lower income (Sub-section 4.2, p. 31).

The Ministry of Transport and Communications has failed to develop a consistent and continuously operational system designed for the supervision of the activities performed by the manager of the public railway infrastructure, which would allow for the determination of the validity of the need for public funds allocated for the management of said infrastructure (Sub-section 4.2, p. 31).

Changes which took place during the audit

In order to ensure the effectiveness and transparency of the activities performed by the manager of the public railway infrastructure, the effective use and development of said infrastructure, to balance the financial streams of the manager thereof, and to improve the condition of said infrastructure:

- the Government approved the reform of the management of the national railway transportation sector initiated by the Ministry of Transport and Communications. JSC Lithuanian Railways will be reorganised by separating the management and use of the freight transportation, passenger transportation, and public infrastructure activities, and founding a number of individual companies. The activities of said companies will still be controlled by JSC Lithuanian Railways, and all of the shares of the latter will still be owned by the state. In order to achieve this aim, the Ministry has developed a draft law amending the Railway Transport Code[7], which specifies that the public railway infrastructure shall be managed, used, and disposed of under trust law by the manager of said infrastructure, namely – JSC Lithuanian Railways, which is a company founded for the purposes of implementing the functions of the manager of the public railway infrastructure.

  The draft law also specifies a mechanism for the coordination of costs directly incurred in relation to the operation of trains, i.e., mandatory coordination of the procedure for assigning costs with the regulator of the railway transportation market[8]. Said law also specifies a new mechanism for controlling capacities which have been allocated, but not engaged, i.e., if capacities allocated during the validity period of the working timetable constitute no less than 10 percent of all allocated capacities, the manager of the public railway infrastructure would have the right to impose a fee on the applicant for the capacities which have been allocated, but not engaged; said fee would be imposed on the applicant in case the respective capacities, or a part thereof, are not engaged on a regular basis[9].

- JSC Lithuanian Railways approved the Long-Term Corporate Strategy for 2030 which defines the company's strategic long-term infrastructure management aims, as well as the measures for the implementation thereof, and provides financial and operational indicator value forecasts, including funding sources, as well as the main strategic risks and directions for the management thereof.

- The Railway Infrastructure Directorate approved the Action Plan for 2018-2022 of the Manager of the Public Infrastructure, and released it to the public. The Plan specifies the use, upgrades, and development of the public railway infrastructure, and the balance of financial flows of the manager thereof.

- In 2018-2019, the Railway Infrastructure Directorate plans to take measures necessary to ensure train traffic safety and speed, i.e., to revise and update internal legislation, as well as road repair and maintenance standards, and to revise the public railway infrastructure upgrade programme every year.

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[7] Draft law No. XIIIP-2205 amending Articles 3, 4(1), 5, 6(1), 7, 7(1), 9, 10, 14, 23, 23(1), 24, 25, 26, 28, 29, 30(1), 30(2), 30(3), 30(4), and 33 of the Railway Transport Code, as well as the annexes thereof, and supplementing the Code with Articles 24(1), 24(2), 24(3), 24(4), 25(1), 25(2), 29(1), 29(2), 29(3), 29(4), 29(5) 29(6), 29(7), and 29(8), registered on 24 May 2018 at the Seimas.

[8] Ibid., Article 17.

[9] Ibid., Article 19.

These actions will have a positive impact on the assurance of the independence of the manager of the public infrastructure, and the effective use and upgrade of said infrastructure.

Recommendations

To the Ministry of Transport and Communications

1. In order to implement the independence of the key functions of the manager of the public railway infrastructure – ensure that payment for the minimum accessibility package are not only determined, but also collected by independent authorities or companies.

2. In order to ensure more effective use of the capacities of the public railway infrastructure – install a system designed for controlling the use of said capacities, and modify the procedures applicable to the reallocation of capacities rejected by carriers to other carriers.

3. In order to ensure the accurate assignment of direct costs incurred by the manager of the public railway infrastructure to the train traffic fee – separate railway service facilities from the public railway infrastructure.

4. In order to develop a consistent and continuously operational system designed for monitoring the activities of the manager of the public railway infrastructure:

    4.1. develop and approve a procedure to be used by the manager of the public railway infrastructure when developing and submitting reports on the management and use of transferred property, as well as reports on income and costs;

    4.2. provide for measures designed for ensuring the analysis of the management and use of the property transferred to the manager of the public railway infrastructure, as well as the activities thereof;

    4.3. develop a procedure for balancing the income and costs of the manager of the public railway infrastructure, which would allow for the determination of the validity of the need for public funds allocated for the management of said infrastructure.

Measures and deadlines for the implementation of the recommendations are provided in the section “The Recommendation Implementation Plan” of the report (p. 34).