



LIETUVOS RESPUBLIKOS SUSISIEKIMO MINISTERIJA

MINISTRY OF TRANSPORT AND COMMUNICATIONS
OF THE REPUBLIC OF LITHUANIA

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European Commission
Directorate-General for Competition (DG COMP)
– Unit F2
Reference number: HT.5524

No 2- September 2024

By e-mail: comp-rail-revision@ec.europa.eu

Subject: Additional comments of the Republic of Lithuania to the draft of Land and multimodal transport guidelines and draft of Transport block exemption regulation

The Ministry of Transport and Communications of the Republic of Lithuania (hereinafter – the Ministry) analysed the 18/6/2024 draft Land and Multimodal Transport Guidelines (hereinafter – LMTG) and Transport Block Exemption Regulation (hereinafter – TBER) published on the European Commission's website and would like to express its feedback on the suggested regulation.

General remarks

At the outset, the Ministry would like to express its appreciation for the initiative to review state aid rules applicable to the railway sector. State aid rules must be reviewed to facilitate the modal shift to rail and inland waterways transport.

In the Ministry's opinion, one of the significant issues in the railway sector is public support for the construction and operation of railway infrastructure, which is subject to state aid rules, e.g., railway transport facilities.

It is common ground that a modal shift from road to rail transport may occur only provided transport organisers are offered by the railway sector services comparable in quality and price to those provided in the road transport sector. To the very least, cargo transfer from roads to railways should not negatively affect the quality of services transport organisers provide to their clients to enable change in the traditional transportation routes.

Railway undertakings may offer transport organisers services comparable to those provided in the road sector only when railway infrastructure exists to provide such services. As a result, state aid rules should enable the financing of railway infrastructure to enable a modal shift from road to railway transport. In this regard, financing of railway transport facilities is critical.

Consultation documents suggest that the Commission already recognised the importance of railway service facilities in transforming land transport. Section 4.2.2.1 of LMTG and Art. 12 of TBER contain new rules enabling *investment aid* to develop railway service facilities. Lithuania appreciates such a proposal.

At the same time, it should be recognised that the modal shift from roads to railways requires more railway service facilities. Hence, until a change in traditional transportation routes from roads to railways takes part to enable the railway sector to maintain railway service facilities

under market conditions, Member States should be allowed to **(i)** support the development of new service facilities (which is already suggested by the Commission) and simultaneously **(ii)** support the operation of existing ones.

Fixed costs of maintaining such infrastructure cannot be transferred to railway undertakings since railway transport would become totally uncompetitive compared to road transport. Hence, Lithuania must have legal tools to support the maintenance of railway infrastructure, which will be needed in the long run until demand for railway services resumes to the level that enables maintenance of service facilities on market terms.

In such context, the Ministry would like to focus its comments on the provision of state aid to railway service facilities.

1) TBER and LMTG should establish rules on the provision of operating aid to operators of railway service facilities

Lithuania is concerned that the LMTG and TBER do not regulate (or regulate somewhat unclearly) the provision of operating aid to undertakings which operate railway service facilities. To be specific:

- Chapter 4.2.1 of LMTG does not regulate the provision of *operating aid* to operators of railway transport facilities. Neither is the provision of such an *operating aid* block exempted under TBER.

It is unclear whether Chapter 5 of LMTG applies to the payment of compensations for the provision of SGEI related to the operation of railway service facilities.

As noted above, the Member States should be allowed to provide operating aid for operators of railway service facilities to ensure that the market can offer railway undertakings the essential services needed to compete with road transport. It may be achieved via **(i)** special rules in Chapter 4 of LMTG for the provision of *operating aid* and/or **(ii)** rules on payment of compensation for the provision of SGEI established in Chapter 5 of LMTG.

2) Chapter 5 of LMTG should make it clear that SGEIs may be entrusted to finance the provision of all services needed for the transportation of goods by rail, including services provided by operators of railway service facilities

Title of Chapter 5 of LMTG suggests that its provisions shall apply to the „rail freight sector“. Such title suggests that Chapter 5 of LMTG shall apply to all SGEIs which are directly or indirectly related to the transportation of goods by rail, including SGEIs related to the operation of railway service facilities (a reference to „sector“ could also be found in, e.g., Item 212 or 219 of LMTG).

At the same time, the wording used in some paragraphs of Chapter 5 seems to suggest that LMTG enables the justification of only such SGEIs that are related to the provision of railway transportation services. For example, Item 217 or 219 refers to the „rail freight transport service“, which is a transportation service of goods by rail.

To avoid any misunderstandings, Chapter 5 of LMTG should clarify that LMTG may be used to justify the entrustment of a wide range of SGEIs in the railway freight sector, including SGEIs related to the operation of railway service facilities.

3) Chapter 5 should contain rules on the SGEIs, which are needed for the provision of passenger and freight transportation services

Chapter 5 of LMTG establishes rules on the entrustment of SGEIs in the „rail freight sector,“ which seems to exclude SGEIs needed by railway undertakings transporting passengers.

In case Chapter 5 of LMTG justifies the entrustment of SGEIs related to the operation of railway infrastructure (it should), then Chapter 5 of LMTG should provide rules explaining the application of state aid rules for SGEIs needed for the transportation of *freight and passengers* (i.e., for both services).

For example, hump shunting yards used to arrange wagons according to selected characteristics before connecting to the locomotives may be used for the arrangement of passenger as well as freight wagons. In case SGEI would include the operation of such a hump shunting yard, it would be unclear whether the LMTG could justify such SGEI since such a railway service facility is used not only for the transportation of freight.

4) Other proposals

In addition to the above proposals, two technical amendments could be suggested:

Art. 12(6) of TBER suggests that the block exemption applies to investment aid not exceeding EUR 3 million *per project*. In practice, it is not clear what the limits of a „single project“ are. For example, the same infrastructure could be developed in several stages, or complex infrastructure could be developed with several facilities of different types running autonomously from each other. In such situations, it is not clear what constitutes a „single project“. Hence, an explanation of what constitutes a „single project“ for the purpose of application of TBER should be provided in Art. 2 of TBER.

Art. 12(8) of TBER suggests that concession to *operate the aided facility* shall be assigned on a competitive, transparent, non-discriminatory, and unconditional basis. Art. 12 of TBER exempts *inter alia* upgrade or renewal of rail facilities. It is unclear how to implement the requirement of competitive procedure established in Art. 12(8) of TBER in case of renewal or upgrade of railway facilities, which operation had already been entrusted before the upgrade or renewal of facilities? Should a new tender for selecting the operator of such infrastructure be organised? If that were the case, then existing operators of railway facilities would not engage in the renewal or upgrade of infrastructure since such an action would require retender operation of infrastructure.

Lithuanian authorities appreciate the European Commission's valuable initiatives and welcomes the proposed railway transport sector reforms, as they are both timely and necessary.

If the European Commission have any further questions or require clarification, we would be pleased to engage in further discussions.

Yours sincerely,

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DETALŪS METADUOMENYS	
Dokumento sudarytojas (-ai)	Lietuvos Respublikos susisiekimo ministerija 188620589, Gedimino pr. 17, 01103 Vilnius
Dokumento pavadinimas (antraštė)	Additional comments of the Republic of Lithuania to the draft of Land and multimodal transport guidelines and draft of Transport block exemption regulation
Dokumento registracijos data ir numeris	2024-09-18 Nr. 2-3237
Dokumento gavimo data ir dokumento gavimo registracijos numeris	–
Dokumento specifikacijos identifikavimo žymuo	ADOC-V1.0
Parašo paskirtis	Pasirašymas
Parašą sukūrusio asmens vardas, pavardė ir pareigos	Vidmantas Tamulis, Grupės vadovas, Vandens ir geležinkelių transporto politikos grupė
Sertifikatas išduotas	VIDMANTAS TAMULIS, Lietuvos Respublikos susisiekimo ministerija LT
Parašo sukūrimo data ir laikas	2024-09-18 09:07:01 (GMT+03:00)
Parašo formatas	XAdES-T
Laiko žymoje nurodytas laikas	2024-09-18 09:07:16 (GMT+03:00)
Informacija apie sertifikavimo paslaugų teikėją	ADIC CA ECC, Asmens dokumentu israsymo centras prie LR VRM LT
Sertifikato galiojimo laikas	2024-07-01 09:48:29 – 2028-06-30 09:48:29
Informacija apie būdus, naudotus metaduomenų vientisumui užtikrinti	"Registravimas" paskirties metaduomenų vientisumas užtikrintas naudojant "RCSC IssuingCA, VI Registru centras - i.k. 124110246 LT" išduotą sertifikatą "DBSIS, Informatikos ir ryšių departamentas prie Lietuvos Respublikos vidaus reikalų ministerijos, i.k.188774822 LT", sertifikatas galioja nuo 2022-05-19 16:48:06 iki 2025-05-18 16:48:06
Pagrindinio dokumento priedų skaičius	–
Pagrindinio dokumento pridedamų dokumentų skaičius	–
Priedamo dokumento sudarytojas (-ai)	–
Priedamo dokumento pavadinimas (antraštė)	–
Priedamo dokumento registracijos data ir numeris	–
Programinės įrangos, kuria naudojantis sudarytas elektroninis dokumentas, pavadinimas	DBSIS, versija 3.5.79.2
Informacija apie elektroninio dokumento ir elektroninio (-ių) parašo (-ų) tikrinimą (tikrinimo data)	Atitinka specifikacijos keliamus reikalavimus. Visi dokumente esantys elektroniniai parašai galioja (2024-09-18 11:12:45)
Paieškos nuoroda	–
Papildomi metaduomenys	Nuorašą suformavo 2024-09-18 11:12:45 DBSIS