

From the Volume Editors

ARTICLES

Przemysław Ciszak, Marcin Kraśniewski, The service facilities in the theory and practice of public economic law

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Summary: The article is devoted to the analysis of EU and national law in the field of access to service facilities. The paper aims to demonstrate that in the case of access to service facilities, which is a new instrument of economic regulation, we are dealing with an instrument of this regulation, which aims to develop goals other than ensuring competition in the rail sector. Second, the article's purpose is to demonstrate that there is no unbundling in the relationship between a rail carrier and an operator of service facilities. Third, the paper indicates that access to service facilities is a legal instrument that also protects *the operator of service facilities*. Fourth, this study is designed to present access to the operator of service facilities in the practice of judicial decisions of administrative courts in Poland.

Key words: service facilities, operator of service facilities, railway carrier, unbundling, third party access, administrative judiciary

JEL: K12, K21, K32, K33

Marek Stolorz, Comments on the background and state of the 'railways of the future' legislation

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Summary: The purpose of this article is to examine the existence of legal solutions in Poland in the scope of the 'railways of the future' and to indicate a possible model of regulation of this matter. The term 'railways of the future' in the article means unconventional railways, characterized by significant differences from traditional railways, those are, in particular: magnetic railways and Hyperloop. In order to obtain a complete picture of the regulation of these means of transport, the regulations of the Federal Republic of Germany and the United States of America were examined. An analysis was also made of the state of the regulation in Poland, together with an indication of which legal regulations may be applied in the creation and operation of a 'railway of the future'. The article also contains conclusions concerning the creation of a model of comprehensive regulation of this matter, which may provide guidance for the legislator.

Key words: railways of the future, magnetic railways, maglev, Hyperloop

JEL: K23

Michał Zięba, Selected formal and legal issues related to the implementation of the EU Directive on interoperability and the EU Directive on safety

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Summary: This article presents selected issues related to the implementation of the EU Interoperability Directive and the Safety Directive into the national legal system. Due to the need for administrative authorities to apply directly effective provisions of the 4th Railway Package, it may be necessary for these authorities to resolve conflicts with national law, which has not yet been adapted to EU solutions. Until Polish legislation is not fully adjusted to the regulations of the 4th Railway Package, it will be necessary to resolve conflict of laws rules ensuring the primacy of the application of EU provisions (in this case, implementing regulations issued by the European Commission) over national law. This will pose a challenge to the National Safety Authorities and may generate legal risks for applicants.

Key words: One Stop Shop; fourth railway package; single safety certificate; authorization for placing in service of railway vehicle; Directive 2016/797 on the interoperability of the rail system; Directive 2016/798 on railway safety; European Railway Agency

JEL: K23

Łukasz Trychom, A few comments in the context of ensuring the effectiveness of judgments issued by the Court of Justice of the European Union against the background of the judgment in case C-512/10 European Commission v Republic of Poland

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Summary: On 30 May 2013, the Court of Justice of the European Union issued a judgment in case C-512/10 *European Commission v Republic of Poland*, in which it stated that the Republic of Poland had failed to fulfill its obligations under Article 6 clause 2 and Article 7 item 3 of Directive 2001/14 EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of fees for the use of railway infrastructure and the granting of safety certificates by enabling, when calculating the fee for the minimum access package and access to equipment related to train service, the inclusion of costs that cannot be considered as being directly incurred as a result of operating the train service. The author's analysis of the problem shows that the process of recovery, by rail carriers, of fees paid for access to railway infrastructure in an incorrectly calculated amount is significantly hindered. It is therefore necessary to analyze whether there can be any talk of an effective implementation of the CJEU judgment in case C-512/10 in the area under consideration. The author presents the views of representatives of the doctrine and case law regarding the above issue.

Key words: rail transport, Directive 2001/14/EC, allocation of railway infrastructure capacity, Court of Justice of the European Union

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LEGISLATION REVIEW

Iwona Miedzińska, Impact of Polish COVID-19 legislation on the rail transport sector

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- V. Summary

Summary: The article deals with the issue of the impact of legal regulations on preventing, counteracting and combating COVID-19 (according to the legal status as of November 24, 2020) on the rail transport sector in Poland, including operating and obtaining permits by railway companies. The analysis covers, in particular, the institutional and legal solutions contained in the provisions of the regulation introducing limitations in connection with the occurrence of the epidemic and in relevant acts.

Key words: COVID-19; SARS-CoV-2 virus; an epidemic; anti-crisis shield; railway transport; passenger transport

JEL: K23

Ewelina Nieznalska, The so-called 'Market Pillar' of the 4th Railway Package and its Implementation

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- II. Preliminary issues
- III. Licensing
- IV. Access to infrastructure
- V. New forms of cooperation
- VI. Independence and impartiality of the infrastructure manager
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Summary: The author analyses the most important changes introduced by the Act of February 13, 2020 amending the act on rail transport and certain other acts implemented by the market pillar of the 4th railway package. Discussed are the guarantees of independence and impartiality of the infrastructure manager, including the manager being part of a vertically integrated enterprise. Moreover, the paper covers also changes to the Act on railway transport in the field of licensing and access to railway infrastructure. The author also points to new forms of cooperation between the manager of the railway infrastructure, the railway operator and the applicant.

Key words: Railway transport; Fourth Railway Package; Market pillar; Vertically integrated enterprise; Act on rail transport, President of the Office of Rail Transport, Railroad operator; Railway infrastructure manager; Applicant; Licensing of railway carriers; Financial credibility requirements; Financial credibility requirements; Minimum access to railway infrastructure; Agreement for the provision of public transport services; Open Access Decision; Restricted Access Decision

JEL: K23

BOOK REVIEWS

M. Etel, A. Piszcz (Ed.), The Act on Road Transport. Commentary [Ustawa o transporcie drogowym. Komentarz], C.H. Beck, Warszawa 2020, pp. 788 (Grzegorz Kozieł)

EVENT REPORT

Report on the activity of the CARS Climate and Energy Laboratory (Michał Krzykowski)