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**Co-funding of purchase and modernization
of rolling stock under the Operational
Program: Infrastructure and Environment**

Conditions of providing aid under Polish law

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Operational Program: Infrastructure and Environment (OPI&E): provisions on modernization and purchase of rolling stock

- Facts
 - Most of the rolling stock is obsolete and worn out. The technical condition of a part of the rolling stock not only considerably limits competitiveness of railway services but also disenables use of technical parameters of newly modernized lines either.

- Priority axis VII "Environment-friendly Transport":
 - One of specific goals of priority axis VII is to improve the condition of railway connections being a part of the TEN-T network and selected sections beyond such network as well as to improve passenger support in the international and interregional railway transport.
 - As part of priority axis VII, projects of modernization and purchase of rolling stock and necessary equipment are to be implemented.



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Railway undertakings providing interprovincial and international transport services

- **International transport:**

- PKP Intercity S.A. and PKP Przewozy Regionalne Sp. z o.o.

- **Interprovincial transport:**

- currently: PKP Intercity S.A. and PKP Przewozy Regionalne Sp. z o.o.
- following transformation within the PKP Group: PKP Intercity S.A.



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Potentially considered options of co-funding of purchase and modernization of rolling stock under the OPI&E

1. Co-funding under a public services agreement
2. Co-funding as part of regional aid according to the Commission Guidelines on regional aid for 2007-2013, amended by the Commission Guidelines on State aid for railway undertakings dated 30 April 2008



Co-funding under a public services agreement

- Legal basis: article 40a of the Railway Transport Act dated 28 March 2003 (Journal of Laws: consolidated text of 2007, no. 16, item 94; the **"Railway Transport Act"**)
- Under a public services agreement, subsidies are provided for:
 - interprovincial railway passenger transport by domestic railways with no seat reservation: currently performed by PKP Przewozy Regionalne Sp. z o.o. only under an agreement with the minister in charge of transport
 - international railway passenger transport in Poland: currently performed by PKP Intercity S.A. and PKP Przewozy Regionalne Sp. z o.o. under agreements with the minister in charge of transport
- The issue of PKP Intercity S.A. that provides interprovincial transport with seat reservation.



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Co-funding under the POI&E under a public services agreement concerning interprovincial transport with seat reservation

- Proposed changes to the existing legal framework:
 - Change of article 40a of the Railway Transport Act: internal arrangements concerning a bill of amendments are underway, the bill is planned to be sent to the Sejm in early June 2008
 - Changes to the public services agreement between PKP Przewozy Regionalne and the minister in charge of transport



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Co-funding of purchase and modernization of rolling stock under the OPI&E under the public services agreement concerning international transport

Proposed changes to the existing legal framework:

- Changes to the public services agreements between PKP Intercity S.A., PKP Przewozy Regionalne Sp. z o.o. and the minister in charge of transport
- The problem of the compatibility of the above mentioned agreements with the Community law after the entry into force of the third railway package



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Co-funding as part of regional aid

- Commission Guidelines on regional aid for 2007-2013 (note 48): *expenditure on the purchase of transport equipment (movable assets) is not eligible for aid for initial investment.*
- Commission Guidelines on State aid for railway undertakings dated 30 April 2008 are expected to take effect in June 2008 (sections 34 – 40): they stipulate a possibility of granting regional aid for modernization and purchase of rolling stock on terms described therein.



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Conditions on granting support to investment in rolling stock within the meaning of the Guidelines dated 30 April 2008

- aid is assigned to lines regularly serving a region eligible for aid under Article 87(3)(a) of the Treaty Establishing the European Community as well as an outermost region or a region of low population density within the meaning of paragraphs 80 and 81 of the regional aid guidelines.
- in the other regions, the derogation applies only to aid for initial investment and, for aid for investment for replacement purposes, only when all the rolling stock that the aid is used to modernize is more than 15 years old.



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Conditions on granting support to investment in rolling stock within the meaning of the Guidelines dated 30 April 2008

- The above derogation has to be made subject to four conditions, which have to be met cumulatively:
 - the rolling stock concerned must be assigned to urban, suburban or regional passenger transport
 - the rolling stock must remain exclusively assigned to the specific region or the specific line passing through several different regions for which it has received aid for at least ten years
 - the replacement rolling stock must meet the latest interoperability, safety and environmental standards applicable to the network concerned
 - the Member State must prove that the project contributes to a coherent regional development strategy.



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Conditions on granting support to investment in rolling stock within the meaning of the Guidelines dated 30 April 2008

- Problems: definition of "regional transport services"
- Definition provided in section 36 of the Commission Guidelines dated 30 April 2008:
 - *'Regional transport services' means transport services intended to meet the transport needs of one or more regions. Transport services serving several different regions, in one or more Member States, may therefore be covered by the scope if it can be shown that there is an impact on the regional development of the regions served, in particular by the regular nature of the service; In this case, the Commission verifies that the aid does not compromise the effective opening of the international passenger transport market and cabotage following the entry into force of the third railway package*
- Definition provided in section 36 of the Commission Guidelines vs. the term "interprovincial lines" in the Railway Transport Act



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Summary



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Summary

- Co-funding of purchase and modernization of rolling stock under the Operational Program: Infrastructure and Environment is possible:
 - under a public services agreement: currently work (including legislative) is pending in order to implement the solution; such work will be completed by 3rd quarter of 2008 at the latest.
 - as part of regional aid according to the Commission Guidelines on regional aid for 2007-2013, amended by the Commission Guidelines on State aid for railway undertakings dated 30 April 2008 (or as part of other forms of State aid provided in the Commission Guidelines of 30 April 2008): the issue is now considered by the Ministry of Infrastructure as an alternative/ supplementation to the solution presented above. Work will be intensified after the Commission Guidelines dated 30 April 2008 take effect.



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