



Republika e Kosovës
Republika Kosovo-Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 03/L-076

ON RAILWAYS IN THE REPUBLIC OF KOSOVO

The Assembly of the Republic of Kosovo,

Based on Article 65(1) of the Constitution of the Republic of Kosovo;

Recognizing the need to establish an independent regulatory authority for the railways sector to ensure reliable and safe public transport by rail for the consumers of Kosovo and with a view to the environmental implications thereof, and for the purpose of advancing railway sector in line with European and International standards;

Hereby adopts:

LAW ON RAILWAYS IN REPUBLIC OF KOSOVO

CHAPTER I

Definitions

Article 1

Scope of Application and Definitions

1.1 This Law applies to the operation, maintenance and use of the Kosovo Railways and connected railway infrastructure and all train operations using such railway infrastructure. It governs the licensing, certification and issuance of permits relating to all railway operations in Kosovo.

1.2 Each of the following terms shall have the indicated meaning unless the context within which such term appears intends a different meaning:

“Emergency Situation” means any situation deemed to be an emergency by the competent authorities under the applicable laws;

“Board Members” means the members of the Board (other than the Director-General) appointed pursuant to article 7.1 of this Law and any replacement thereof prior to the expiry of the term of such Board members as defined in article 7.6 of this Law;

“Infrastructure Management Agreement” means an agreement between Kosovo Agency for Privatizations the administrative authority controlling Kosovo Railways Infrastructure and the Infrastructure Manager, which gives the Infrastructure Manager the exclusive right to operate, maintain and use the Kosovo Railways Infrastructure pursuant to the terms and conditions of the agreement;

“Infrastructure Manager” means Kosovo Railways, any successor entity of Kosovo Railways or contractual appointee that maintains or operates the Kosovo Railways Infrastructure;

“Interoperability” means the ability of the Kosovo Railways Infrastructure to allow safe and uninterrupted movement of conventional trains within, to and from Kosovo;

“Kosovo Railways” means the interim railway entity in Kosovo pursuant to article 1 of UNMIK Administrative Direction 2002/1 which includes the business of providing rail transport and management of the Kosovo Railways Infrastructure in Kosovo on the date this Law enters into force;

“Kosovo Railways Infrastructure” is an integral part of the interim railway entity in Kosovo pursuant to article 1 of UNMIK Administrative Direction 2002/1 and means the railway infrastructure in Kosovo managed by Kosovo Railways on the date this Law enters into force is a public property owned by Kosovo;

“KAP” means the Kosovo Agency for Privatization;

“License” means a license issued by the Authority pursuant to article 16 of this Law and includes a license deemed to be held by a Train Operator pursuant to article 32 of this Law;

“Railway network” means the railway infrastructure in Kosovo;

“Network Statement” means a statement of the matters set out in Annex I to Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001, that, among other matters, describes the Network and sets out the procedures and conditions governing the access of Train Operators to the Kosovo Railways Infrastructure;

“Person” means an individual, legal or public entity including a corporation, a socially-owned or a publicly-owned enterprise, a partnership, a trust, an unincorporated organization, a government agency or subdivision thereof;

“Related Person” in relation to another Person, means:

(i) the Person’s spouse;

(ii) the Person's parents, parents-in-law, brothers, sisters, children, step-children, nephews, nieces, cousins and their respective spouses;

(iii) a personal business enterprise, a limited or general partnership, a limited liability company, a joint stock company or other body corporate including a socially-owned or a publicly-owned enterprise in which the Person or any of the people referred to in paragraphs (i) and (ii) above are, directly or indirectly, owner, partner, shareholder, director, manager or employee.

“Permit” means a permit issued by the Authority Railway Regulatory Authority pursuant to article 21 and includes a permit deemed to be held by a Person pursuant to article 33 of this Law;

“Safety Certificate” means a safety certificate issued by the Authority pursuant to article 16 of this Law and includes a Safety Certificate deemed to be held by a Train Operator pursuant to article 32 of this Law;

“Safety Instructions” means the rules issued by the Authority pursuant to article 13.1(c) of this Law;

“Staff Member” means the Director-General, the Deputy Director-General and any other Person employed by, or seconded to, the Authority;

“Track Access Agreement” means an agreement between the Infrastructure Manager and a Train Operator setting out the terms and conditions upon which Train Paths have been allocated to the Train Operator;

“Train Path” means the infrastructure capacity needed to run a railway vehicle on the Kosovo Railways Infrastructure between two places during a particular period of time;

“Train Operator” means a Person that has, or is deemed to have, a License and Safety Certificate;

“Train Operations” means the movement of trains;

“Vice Chairperson” means the Vice Chairperson of the Board.

“Warning Notice” means the written notice given by the Authority to a Train Operator pursuant to article 28.1 of this Law;

“Warning Period” means the period specified in a Warning Notice within which the Authority requires any violation set out in article 28 or any circumstance warranting the revocation of a Licence, Safety Certificate or Permit to be remedied;

“Ministry” means the Ministry of Transport and Telecommunication;

1.3 Words denoting a gender in this Law shall include the other gender and words denoting the singular shall include the plural and vice versa.

1.4 References to any Law, Administrative Direction, Subsidiary Instruments or European Directive shall include all Laws, Administrative Directions, Laws or European Directives implementing, consolidating, amending, replacing, supplementing or interpreting such Law, Administrative Direction, Subsidiary Instrument or European

Directive.

CHAPTER II

The Railway Regulator

Article 3

Independent Railway Regulatory Authority

3.1 The Independent Railway Regulatory Authority (hereinafter the “Authority”) is hereby established as an independent regulatory body. The Authority shall carry out its functions under this Law and any other applicable law independently of the Government.

3.2 The Authority shall have the powers necessary or expedient to carry out its functions under the present Law and the applicable law in Kosovo. In particular, the Authority shall have the capacity to enter into contracts and to acquire, hold and dispose of property.

Article 4

Responsibilities and Functions of the Authority

4.1 The Authority shall regulate the railway sector in Kosovo having regard to European Directives relating to railways that are appropriate for Kosovo.

4.2 In accordance with this Law, the Authority shall:

- a) issue, revoke and monitor compliance with Licenses, Safety Certificates and Permits;
- b) issue rules and prescribed forms relating to applications for, and conditions of, Licenses, Safety Certificates and Permits;
- c) approve railway equipment with respect to safety and Interoperability;
- d) issue rules for the safety and Interoperability of the railway system and monitor compliance with such rules;
- e) conduct and report on safety inspections;
- f) consider and determine appeals made by a Train Operator with respect to a decision of the Infrastructure Manager and issue procedures for such appeals;
- g) conduct and report on accident investigations and issue procedures governing the conduct of accident investigations;
- h) monitor and provide information to the public, the Assembly and the Ministry of Transport and Communications (the “Ministry”) about the development of the railway sector, related safety issues and the market conditions for railways in Kosovo with a view to introducing competition between Train Operators; and

i) make recommendations to the Assembly and the Ministry with regard to the development of the railway sector, including legislation to promote fair and non-discriminatory competition and provide the Assembly and the Ministry with all information relevant and necessary to evaluate such recommendations.

Article 5

Organizational Structure of the Authority

The Authority shall have a Governing Board (the “Board”), a Director-General of Railways (the “Director-General”), a Deputy Director-General of Railways (the “Deputy Director-General”), as well as other professional and administrative staff as set out in this Law.

Article 6

The Board

6.1 All powers of the Authority shall be vested in the Board, which shall have four (4) members, including the Chairperson, the Vice Chairperson and the Director-General.

6.2 The Board may delegate the exercise of its powers to the Director-General, except for the:

- a) issuance and revocation of Licenses, Safety Certificates and Permits;
- b) issuance of rules and prescribed forms for applications for, and conditions of, Licenses, Safety Certificates and Permits;
- c) consideration and determination of appeals of decisions of the Infrastructure Manager;
- d) issuance of procedures for appeals of decisions of the Infrastructure Manager;
- e) approval and withdrawal of approvals of railway equipment;
- f) approval of the determinations of fact, decisions and recommendations of any accident investigation or safety inspection and the issuance of final reports;
- g) issuance of procedures for the conduct of accident investigations;
- h) approval of internal procedures and policies of the Authority and the Board;
- i) approval of any budget proposals, financial statements, reports or other information to be provided by the Authority pursuant to UNMIK/REG/2002/18 and the Law on Public Financial Management and Accountability 2003/38 and any Subsidiary Instruments issued there under;
- j) approval, in accordance with the applicable law, of any transaction and documentation relating to:
 - (i) the procurement of goods, services or works;

- (ii) the borrowing of money;
 - (iii) the extension of a loan or the establishment of a credit facility;
 - (iv) the issuance of any instruments imposing a debt obligation on the Authority;
 - (v) a guarantee, indemnity or other assurance of the repayment of any third party debts;
or
 - (vi) the acquisition of any moveable or immovable property or a direct or indirect interest in an undertaking of any nature;
- a) approval of the payment of compensation or any settlement of any legal proceedings brought against the Authority in a competent court;
 - b) after the term of the Initial Board Members, the appointment and dismissal of the Director-General; and
 - c) recommendations to the Assembly and the Ministry with regard to the development of the railway sector, in particular, introducing competition between Train Operators by rescinding restrictions on granting Train Paths.

6.3 Notwithstanding paragraphs 1 and 2 of this Article, the Assembly may at any time:

- a) repeal or modify any decision of the Board if he determines that such decision fails to comply with:
 - (i) the Constitution of Kosovo;
 - (ii) this Law and any Subsidiary Instrument issued pursuant to this Law, including any policies or procedures issued by the Authority from time to time with respect to the regulation of the railway sector in Kosovo and the business and organization of the Authority;
 - (iii) any law applicable in Kosovo; or
 - (iv) any agreement relating to railways entered into by Kosovo.
- b) order the Board to take any action or forbear from taking any action which he determines necessary to comply with the matters set out in article 6.3(a) of this Law.

Article 7

Appointment, Removal and Resignation of Board Members

7.1 The Assembly shall appoint the Board Members, including the Chairperson and the Vice-Chairperson, who shall be proposed by the Government upon the recommendation by the Ministry.

7.2 A Board member shall have:

- a) a university degree or suitable professional or technical qualification;
- b) at least three (3) years experience in the railway sector in Kosovo or other relevant

fields; and

c) knowledge of safety requirements for railways.

7.3 No Person may be appointed or remain a Board member who is:

a) an employee or official of the Government or any other public body of Kosovo;

b) actively involved in a political party; or

c) an employee, contractor, shareholder, partner, owner, manager, board member, administrator in bankruptcy or member of a liquidation committee of any Person who has applied for, or been issued with, a License, Safety Certificate or Permit.

7.4 All members of the Board shall be citizens of Kosovo.

7.5 Each Board member shall be appointed for a term of at least three (3) years but not more than five (5) years. Board members may be appointed for more than one (1) term.

7.6 A Board member may be removed from the Board by the Assembly if the Board member:

a) has, in the opinion of the authority that appointed him, failed to exercise the skill and diligence expected of someone appointed to the Board;

b) has failed to attend meetings and participate actively in the activities of the Board for more than three (3) months;

c) is unable to perform his responsibilities due to physical or mental incapacity;

d) becomes ineligible to serve on the Board due to any of the circumstances set out in paragraph 4 of this Article;

e) has been convicted of a criminal offence (including transport offences) for which he may be sentenced to a term of imprisonment of six (6) months or more;

f) has engaged in misconduct (whether in the performance of his duties or not) which, in the opinion of the authority that appointed him, might compromise his ability to perform his duties or might adversely affect the reputation of the Board; or

g) is bankrupt or subject to bankruptcy proceedings which are not discharged within 3 (three) months.

7.7 The Assembly may remove one or more Board members if they or the Board have not complied with the matters set out in points (a) or (b) of Article 6.3 of this Law. The Government shall nominate a replacement for such Board member within 30 (thirty) days. If the nomination is not made within the prescribed time, then the Assembly may designate a temporary replacement to fill the casual vacancy on the Board until the Government has nominated a replacement and a permanent appointment has been made by the Assembly.

7.8 A Board member may resign from the Board by giving the Assembly and the Board not less than one (1) month notice in writing.

Article 8

Proceedings of the Board

8.1 Meetings of the Board shall be conducted in accordance with internal procedures adopted by the Board and shall be held in private at least once every 2 (two) months. The first meeting of the Board shall be held not later than 1 (one) month after the date on which the Board is fully constituted in accordance with this Law. The Chairman may, at his discretion, or upon the request of at least two (2) Board members, convene additional meetings of the Board at any time.

8.2 The Chairman shall notify all Board members of the date, time, place and agenda of a Board meeting at least seven (7) days before such meeting is to be held. The Chairman may, in urgent matters, give less than seven (7) days notice of a Board meeting, provided the minimum number of Board members required to be present at a meeting is attending the meeting and confirm it has been properly convened.

8.3 The Chairman or, in case the office of Chairman is vacant, the Vice Chairman, the Director-General and at least one (1) other Board Member (not being prohibited from voting) must be present, personally or on the telephone, at and throughout any meeting of the Board in order for the Board to conduct any business, and, if this is not the case, the meeting shall stand adjourned for seven (7) days.

8.4 Decisions of the Board shall be made by voting and shall be determined by a majority of the votes cast. Each Board Member shall have one (1) vote on each resolution and, where the number of votes in favor of the resolution is equal to the number of votes against it, the Chairman shall have a second vote.

8.5 If there is an urgent matter to be advanced and the Chairperson cannot convene a Board meeting that has the required number of Board Members present, the matter may be dealt with by way of a written resolution signed by the Chairperson and at least two (2) other Board Members who would have been eligible to vote on the matter had a Board meeting been convened.

8.6 The Chairman shall ensure that a record of every Board meeting is made in English, Serbian and Albanian and approved at the next Board meeting as a true and accurate record. In the case of a discrepancy between records maintained in different languages, the record in English shall prevail. The Chairman shall ensure that all records of Board meetings are retained and kept in a safe and secure place. The records shall be confidential and shall include the date, time and place of the meeting, the Board Members and other people present, any interest declared by a Board Member, a summary of every matter dealt with, any documentation presented to the Board and the decisions made by the Board.

8.7 The Vice Chairman shall perform the functions of, and exercise the powers of the Chairman at any time that the office of Chairman is vacant.

Article 9
Compensation of Board Members

9.1 Every Board member (other than a Board member who is a Staff Member) shall receive a fixed sum for every Board meeting that he attends.

9.2 Every Board member shall be compensated by the Authority for reasonable and proper expenses incurred in the performance of his duties as a Board member.

Article 10
Duties of Board Members and their Accountability

10.1 In performing duties for the Board every Board member shall act in good faith, in the best interests of the Authority and apply the skills and diligence expected of someone appointed to the Board.

10.2 A Board member must disclose the nature and extent of his interest in any matter before the Board at the time of the meeting during which the matter is to be discussed. A Board member that has an interest in a matter before the Board shall be prohibited from participating in discussions on that matter and from voting on any resolution relating to such a matter. Any resolution of the Board with regard to any matter in which a Board member has an interest that has not been disclosed to the Board in accordance with this article shall be void. For the purposes of this article, a Board member shall be deemed to have an interest in a matter if he or a Related Person has a personal or financial interest in the matter.

10.3 No Board member or Staff Member shall be personally liable for any loss or damage incurred by the Authority or any other Person in connection with the execution of his duties as a Board member or Staff Member, as the case may be.

10.4 The Authority may obtain and maintain insurance for the benefit of any present or former Board member or Staff Member indemnifying such Board member or Staff Member against liability to any Person which he may sustain or incur in connection with the execution of his duties as a Board member or Staff Member that may lawfully be insured against.

10.5 The Designee of a Board member is not the agent of the Board member and shall be solely responsible for his own acts and defaults.

Article 11
Management

11.1 The Director-General shall be the chief executive officer of the Authority. The Director-General shall be appointed and dismissed by the Board. Anyone ineligible to serve on the Board shall also be ineligible to be appointed Director-General.

11.2 The Director-General shall exercise the powers delegated to him by the Board and this Law and shall be responsible for:

- a) conducting the ordinary business of the Authority in accordance with any policies and instructions issued by the Board;
- b) appointing and dismissing Staff Members in accordance with internal policies and procedures and the applicable law;
- c) providing the Board with information with respect to matters to be discussed at Board meetings and ensuring the implementation of decisions by the Board;
- d) with the concurrence of the Board, performing any functions ancillary to Article 4.2 of this Law; and
- e) with the concurrence of the Board, contracting out the testing of railway equipment and investigation of accidents to a competent third party.

11.3 The Director-General shall nominate one of the senior officials of the Authority to be the Deputy Director-General and to be his Designee.

11.4 Staff Members may be seconded to the Authority by other institutions. Remuneration and conditions of service of seconded staff shall depend on the respective contracts that Staff Members have entered into. Privileges, immunities and liabilities to taxation in Kosovo of seconded Staff Members shall depend on the privileges and immunities of institution the seconded Staff Member is employed with, the respective tax regime applicable for such institution in Kosovo and the provisions of the contractual relationship between the Staff Member concerned and the institution.

11.5 In the discharge of their duties to the Authority, the Staff Members shall not seek or receive instructions from any Government or from any other authority external to the Authority.

11.6 Board members, Staff Members and the agents and sub-contractors of the Authority shall at all times maintain the confidentiality of any information which is obtained in course of their duties at or on behalf the Authority and not in the public domain and which may endanger the commercial or other interests of the Authority or any Person that has applied for, or been issued with, a License, Safety Certificate or Permit.

11.7 A Staff Member shall avoid any conflicts of interest that may adversely influence the performance of official duties and declare any actual or potential conflicts of interest to the Authority at the time of recruitment and thereafter if and when such actual and potential conflicts of interest arise or become evident. Conflicts of interest for the purpose of this article may arise from personal or financial interests and from official dealings with, or discussions or decisions with respect to, a Related Person.

11.8 A Staff Member shall declare, and shall be excluded from dealing with, any matter in which the Staff Member or a Related Person has a personal or financial interest.

Article 12

Financial Management

12.1 The Authority is a budget organization for the purposes of the Law on Public Financial Management and Accountability.

12.2 The Director-General and the financial officer of the Authority shall submit any documents produced pursuant to the Law on Public Financial Management and Accountability to the Board for approval before issuing them.

12.3 The Ministry of Finance and Economy shall ensure that funding is made available to the Authority in accordance with the budget proposal approved in accordance with the budget process.

12.4 The Authority shall be subject to audits conducted in accordance with the Law on Public Financial Management and Accountability and the Law on the General Audit of Kosovo and the Audit Office of Kosovo.

12.5 The Assembly may at any time require that additional audits of the Authority be conducted, the scope of which shall be determined by the Assembly on a case-by-case basis.

12.6 Staff Members, funded through the Kosovo Consolidated Budget, shall receive remuneration that is competitive with the remuneration paid to other employees in the railway sector in Kosovo with similar qualifications.

CHAPTER III

Regulatory Rules, Licenses and Certificates

Article 13

Issuing Regulatory Rules

13.1 The Authority taking into account relevant European Directives relating to railways, which are appropriate for Kosovo, shall issue regulatory rules and prescribed forms for:

a) applications for the issuance, renewal or surrender of a License, a Safety Certificate or a Permit;

b) the conditions that may apply to Licenses, Safety Certificates and Permits;

c) the safety (Safety Instructions) and Interoperability of railway infrastructure and Train Operations in Kosovo;

d) the procedures governing appeals made by Train Operators with respect to the decisions of the Infrastructure Manager;

e) the procedures governing accident investigations; and

f) such other matters that the Authority deems necessary to implement the present Law or the applicable law.

13.2 The Safety Instructions shall, among other matters, include the following safety requirements:

a) the railway infrastructure, railway vehicles and other equipment have to be suitable for their intended use and purpose, safe and reliable in order to minimize the risk of death, personal injury and damage to property;

b) rail transport and the maintenance and operation of railway infrastructure are to be conducted in a manner that minimizes the risk of death, personal injury and damage to property;

c) safety related duties may only be carried out by suitably qualified employees, who have been subjected to regular medical examinations certifying the absence of any health condition that might affect the employees' ability to perform their duties; and

d) the suspension of any employee who refuses to have a medical examination or who, as a result of a medical examination has been found to be unable to perform his duties safely and reliably due to any health condition or other reasons.

13.3 The Authority may at any time amend, supplement or replace the rules issued, provided it gives at least one (1) months notice in writing to all Persons that are known to be directly affected by such amendment, supplement or replacement. The notice shall state the nature of such amendment, supplement or replacement and when it shall take effect.

13.4 The Authority shall provide each Person that is known to be directly affected by a rule issued with a free copy of such rule and any amendment, supplement or replacement of such a rule:

a) on the date on which that Person becomes the holder of a License, Safety Certificate or Permit;

b) within 7 (seven) days of the day on which such rule is issued, amended, supplemented or replaced; or

c) within 7 (seven) days of the day on which the Authority receives a request from such Person for a copy of such a rule or any amendment, supplement or replacement thereto.

Article 14

Requirements to hold a License and Safety Certificate

14.1 Subject to the provisions of this article, no Person may provide rail transport in Kosovo without holding a valid License and Safety Certificate.

14.2 No Person holding a valid license authorizing train operations is required to hold a License issued under the present Law, provided the license held was validly issued by

any member State of the European Union that has entered into an agreement with Kosovo for the mutual recognition of licenses authorizing train operations.

Article 15 **Applications for Licenses and Safety Certificates**

15.1 Every Person intending to provide rail transport in Kosovo shall apply to the Authority for a License or a Safety Certificate by submitting to the Authority an application in the form prescribed by the Authority together with any documents and information required to be submitted with the application form pursuant to the applicable rule issued by the Authority in accordance with article 13.1(a) of this Law.

15.2 The Authority may request an applicant for a License or a Safety Certificate to submit additional information and documents relating to its application.

15.3 The Authority shall confirm to an applicant for a License or a Safety Certificate within seven (7) days of receipt that it has received the application, the information and documents provided therewith and any fees paid to the Authority.

Article 16 **Issuance of Licenses and Safety Certificates**

The Authority shall issue a License or a Safety Certificate to an applicant if it is satisfied:

- a) with the information in the application form and any other information or documents submitted by such applicant in relation to the application;
- b) that such applicant will be able to comply with the conditions that shall apply to the License or Safety Certificate.

Article 17 **Conditions of License and Safety Certificates**

17.1 Subject to the provisions of this article, the conditions set out in a rule issued by the Authority pursuant to article 13.1(b) of this Law shall apply to every License issued. Such conditions shall require, among other matters, that:

- a) the most recent audited accounts of a Train Operator and other financial information provided to the Authority are satisfactory to the Authority and demonstrate that the Train Operator is solvent and likely to be able to meet its actual and contingent liabilities in the next twelve (12) months;
- b) the Train Operator has no arrears with respect to duties, tax or social security liabilities;
- c) the Train Operator obtains and maintains suitable public liability insurance;

d) the Train Operator and its senior management are of good repute, in particular that:

(i) no senior manager has been declared bankrupt in the last five (5) years or is subject to bankruptcy proceedings which are not discharged within 3 (three) months;

(ii) no action or legal proceedings have been started or any other steps are taken to liquidate the Train Operator or declare it insolvent or enforce a security interest over, take possession of, or charge, enforce upon or sue out against, any material asset of the Train Operator;

(iii) they have not been convicted of a serious criminal offence (including commercial and transport offences);

(iv) they have not seriously or repeatedly breached this Law or any Subsidiary Instrument issued pursuant to this Law or any applicable legislation governing customs, social security or employment, including occupational safety, health and the working environment;

a) the senior management and employees of the Train Operator have the necessary knowledge, experience, qualifications and skills to conduct the Train Operations of the Train Operator safely and reliably;

b) the rolling stock of the Train Operator is safe and reliable; and

c) the Train Operator is a legal entity, acceptable to the Authority, with full juridical personality and its management organization is such that the Train Operations of the Train Operator can be effectively controlled and supervised.

17.2 Subject to the provisions of this article, the conditions set out in a rule issued by the Authority pursuant to 13.1(b) of this Law shall apply to every Safety Certificate issued. Such conditions shall require, among other matters, that:

a) the Train Operator issues internal safety instructions, acceptable to the Authority and consistent with the Safety Instructions;

b) safety related duties may only be carried out by suitably qualified employees, who have had regular medical examinations certifying the absence of any health condition that might affect their ability to perform their duties; and

c) a Train Operator immediately reports to the Authority all accidents which cause death, injury or severe damage to property of high value. All other accidents and near accidents shall be reported on a monthly basis on the first day of every month.

17.3 The Authority may amend, supplement or replace the conditions of a License or Safety Certificate upon giving one (1) month written notice to the Train Operator to whom such License or Safety Certificate has been issued.

17.4 The Authority shall review the conditions of a License or Safety Certificate issued to a Train Operator on the anniversary of the date on which such License or Safety Certificate was issued.

17.5 The Train Operator shall comply with the conditions of its License, Safety

Certificate and the Safety Instructions at all times. A Train Operator that pursuant to article 14.2 is not required to hold a License, shall comply with the conditions of the license issued to it by the member state of the European Union.

Article 18

Termination and Revocation of Licenses and Safety Certificates

18.1 A License and Safety Certificate shall terminate on the earlier of:

- a) the date on which it is revoked by the Authority; or
- b) the date on which it is surrendered by the Train Operator.

18.2 The Authority may revoke a License if:

- a) the Train Operator ceases to provide Train Operations for a period of more than three (3) months and has confirmed to the Authority in writing that it has no intention of resuming such Train Operations;
- b) any action or legal proceedings have been started or any other steps are taken to liquidate the Train Operator or declare it insolvent or enforce a security interest over, take possession of, or charge, enforce upon or sue out against, any asset that is required by the Train Operator to conduct its business that has not been discharged within three (3) months;
- c) the Train Operator has not complied with the conditions of its License;
- d) the Train Operator has committed any violation set out in article 25 of this Law and such violation has not been remedied prior to the expiry of the Warning Period specified in a Warning Notice issued by the Authority in connection with such violation; or
- e) the Train Operator has not paid within two (2) months of the due date any fees or fines payable to the Authority;

18.3 A Safety Certificate may be revoked by the Authority if the Train Operator has not complied with the conditions of its Safety Certificate or the Safety Instructions and has failed to remedy such non-compliance within the Warning Period specified in the Warning Notice issued by the Authority in connection with such non-compliance.

18.4 A Train Operator may surrender its License or Safety Certificate upon giving one (1) month prior written notice to the Authority.

Article 19

Inspections and Investigations

19.1 In the course of monitoring a License or Safety Certificate, testing any equipment, or conducting a safety inspection or accident investigation, the Authority, or any its sub-contractors or agents on behalf of the Authority, may:

- a) inspect and copy the accounts, books, records and any other information held or in the control of a Train Operator about the Train Operator, its business, management and staff;
- b) inspect, test and run equipment, vehicles, installations, materials, land and buildings (not being residential buildings) of a Train Operator with the assistance of the Train Operator's staff; and
- c) interview the management and staff of the Train Operator.

19.2 The Train Operator shall co-operate fully with the Authority with respect to any requests for information, inspections and tests conducted by the Authority, including, but not limited to, providing access to its premises and property and free assistance from its staff.

19.3 The Kosovo Police and Kosovo Customs Service shall provide any assistance requested by the Authority in connection with an accident investigation or safety inspection. The Authority may disclose any information provided or disclosed to, or discovered by, the Authority to the Kosovo Police Service and Kosovo Customs Service as necessary for such investigations and inspections.

Article 20

Liability of the Authority

20.1 Save for the circumstance set out in paragraph 3 of this Law, the Authority shall have no liability to any Person for any loss or damage incurred by such Person in connection with the execution of the Authority's responsibilities in accordance with this Law and Subsidiary Instruments issued there under.

20.2 No Person may take legal proceedings against the Authority unless it has first exercised its right, if any, to apply to the Supreme Court of Kosovo for a judicial review pursuant to article 30 of this Law.

20.3 The Authority shall be liable to any Person (including such Person's heirs) for the death of, or any personal injury, damage to property and reasonably foreseeable financial loss (excluding, indirect, consequential or punitive damages) incurred by, such Person as a direct result of any act or omission of the Authority that:

- a) is outside the authority of the Authority under this Law or any Subsidiary Instruments issued pursuant to this Law;
- b) is a gross misuse of the powers of the Authority under this Law or any Subsidiary Instruments issued pursuant to this Law; or
- c) is a breach of any contractual obligations undertaken by the Authority.

20.4 The liability of the Authority shall be limited to ten million euros (€10,000,000) per occurrence, as defined in the policy of insurances for any liability that the Authority may incur and for which it may lawfully be insured against.

CHAPTER IV

Infrastructure Management

Article 21 Permits

21.1 Any Person that maintains or operates railway infrastructure in Kosovo shall apply to the Authority for a Permit by submitting to the Authority an application in the form prescribed by the Authority together with any documents and information required to be submitted with the application form pursuant to the rule issued by the Authority under article 13.1(a) of this Law.

21.2 The Authority can request from an applicant for a Permit the submission of additional information and documents relating to the application.

21.3 The Authority shall confirm to an applicant for a Permit within seven (7) days of receipt that it has received the application, the information and documents provided therewith and any fees paid to the Authority.

21.4 The Authority shall issue a Permit to an applicant for such Permit if it is satisfied:

- a) with the information in the application form and any other information or documents submitted by the applicant; and
- b) that the applicant will be able to comply with the conditions that apply to the Permit pursuant to paragraphs 5 and 6 of this Article.

21.5 Subject to Sub-article 6 hereunder, all conditions set out in a rule issued pursuant to 13.1(b) of this Law shall apply to every Permit. Such conditions shall require, among other matters:

- a) the most recent audited accounts of the applicant and other financial information provided to the Authority are satisfactory to the Authority and, in particular, demonstrate that the applicant is solvent and likely to be able to meet its actual and contingent liabilities in the next twelve (12) months;
- b) the applicant and its senior management are and remain of good repute, in particular that:
 - (i) no senior managers have been declared bankrupt in the last five (5) years or are subject to bankruptcy proceedings which are not discharged within 3 (three) months;
 - (ii) no action or legal proceedings have been started or any other steps are taken to liquidate the applicant or declare it insolvent or enforce a security interest over, take possession of, or charge, enforce upon or sue out against, any material asset of the applicant;
 - (iii) they have not been convicted of a serious criminal offence (including commercial and transport offences);
 - (iv) they have not seriously or repeatedly breached this Law or any Subsidiary Instrument

issued there under or any applicable legislation governing customs, social security or employment, including occupational safety, health and the working environment;

c) the applicant immediately informs the Authority of any change to its activities, or that any information or documents supplied to the Authority in support of its application for a Permit or pursuant to the conditions of the Permit was or has become inaccurate or misleading;

d) that the senior management and employees of the applicant have and will retain the necessary knowledge, experience, qualifications and skills to maintain and operate railway infrastructure and operate the installations of the railway infrastructure safely and reliably;

e) that the applicant is and will remain a legal entity, acceptable to the Authority, with full juridical personality and that the management organization of the applicant is such that the maintenance and operation of the railway infrastructure and operation of the installations of the railway infrastructure can be effectively controlled and supervised;

f) the railway infrastructure and other railway equipment of the applicant is and will remain safe and reliable; and

g) the applicant shall issue an internal safety instructions, acceptable to the Authority and consistent with the Safety Instructions.

21.6 The Authority may amend, supplement or replace the conditions of a Permit upon giving one (1) month written notice to the applicant.

21.7 The Authority shall review the conditions of a Permit issued on the anniversary of the date on which such Permit was issued.

21.8 The holder of a Permit shall comply with the conditions of its Permit and the Safety Instructions at all times.

Article 22 Termination and Revocation of Permits

22.1 A Permit shall terminate on the earlier of:

a) the date on which it is revoked by the Authority; or

b) the date on which it is surrendered by the holder of the Permit.

22.2 The Authority may revoke a Permit if the holder of the Permit:

a) does not comply with the conditions of its Permit or the Safety Instructions; or

b) has committed any violation set out in article 27 of this Law and such violation has not been remedied prior to the expiry of the Warning Period specified in a Warning Notice issued by the Authority in connection with such violation.

22.3 A holder of a Permit may surrender its Permit upon giving one (1) months prior

written notice to the Authority.

Article 23

The Infrastructure Manager

The Infrastructure Manager shall maintain and operate the Railway Infrastructure in accordance with the Infrastructure Management Agreement, the Permit issued by the Authority, the provisions of the present Law, any Subsidiary Instrument issued hereunder and the law applicable in Kosovo.

Article 24

The Network Statement

24.1 The Infrastructure Manager shall, after consultation with interested parties, develop and publish the Network Statement no less than 4 months before the deadline for applications for Train Paths.

24.2 The Network Statement shall be fair and non-discriminatory.

24.3 The Infrastructure Manager shall update the Network Statement annually.

24.4 Any railway infrastructure in Kosovo, which is not maintained or operated by the Infrastructure Manager but which is connected to the Kosovo Railways Infrastructure, shall be included in the Network Statement and the Person that maintains and operates such railway infrastructure shall provide the Infrastructure Manager with all information necessary to complete the Network Statement as and when required by the Infrastructure Manager.

24.5 The Infrastructure Manager shall provide a copy of the Network Statement to any Person upon payment of a fee, such fee not to exceed the cost of making and providing the copy.

Article 25

Train Paths

25.1 Train Operators may apply to the Infrastructure Manager for Train Paths in accordance with the procedures set out in the Network Statement.

25.2 Every year, the Infrastructure Manager shall prepare a working timetable accommodating, as far as possible:

- a) all applications for Train Paths which have been received in accordance with the Network Statement; and
- b) train Paths for international traffic which have been agreed with infrastructure

managers operating outside Kosovo.

25.3 In preparing the working timetable, the requirements of international traffic shall take precedence over other traffic.

25.4 A copy of the timetable prepared by the Infrastructure Manager pursuant to this article shall be provided to Train Operators in accordance with the procedures set out in the Network Statement.

25.5 Where the Infrastructure Manager has received more than one application for the same Train Path, the Infrastructure Manager shall co-ordinate with the relevant Train Operators to determine which Train Operator should be allocated the Train Path in accordance with priority criteria outlined in the Network Statement.

25.6 Once the working timetable has been implemented, the Infrastructure Manager may:

- a) allocate a Train Path that has not been allocated in the working timetable to a Train Operator;
- b) allocate Train Paths on an ad hoc basis to a Train Operator that has not applied for Train Paths within the time period for applications set out in the Network Statement;
- c) adjust Train Paths following a traffic disturbance, in an Emergency Situation or pursuant to a Track Access Agreement.

25.7 The Infrastructure Manager shall not grant a Train Path to a Train Operator if such Train Path competes with the Train Operations of Kosovo Railways, unless otherwise recommended by the Authority.

Article 26

Track Access Agreements

26.1 The Infrastructure Manager shall enter into a Track Access Agreement with each Train Operator that has been allocated one or more Train Paths.

26.2 The Train Operator may appeal to the Authority to review:

- a) the Network Statement;
- b) the allocation of Train Paths; and
- c) disputes relating to the Track Access Agreement.

CHAPTER V

Enforcement

Article 27

Administrative Sanctions

27.1 A Person shall be liable for an administrative fine of up to fifty thousand Euros (€50,000) if it:

- a) conducts Train Operations without a valid License or Safety Certificate;
- b) maintains or operates railway infrastructure in Kosovo without a Permit;
- c) supplies false, misleading, or inaccurate information to the Authority;
- d) does not comply with the Safety Instructions and in doing so creates a serious risk to human health or life.

27.2 A Person shall be liable for an administrative fine of up to twenty thousand Euros (€20,000) if it:

- a) repeatedly or persistently fails to comply with this Law or any Subsidiary Instrument issued hereunder; or
- b) unlawfully discriminates against any Person or group of Persons.

27.3 A Person shall be liable for an administrative fine of up to five thousand Euros (€5,000) if it fails to comply with this Law or any Subsidiary Instrument issued hereunder.

27.4 No Person, other than a Permit holder being authorised to do so, may open or build a level crossing on, or build upon or otherwise obstruct the safety belt of, Kosovo Railways Infrastructure or other railway infrastructure that is connected to Kosovo Railways Infrastructure without the consent of the holder of the Permit relating to such railway infrastructure. A Person who fails to comply with this article shall be liable for an administrative fine of up to five thousand Euros (€5,000) and shall remove, or meet the costs of removing, the prohibited level crossing on, or the prohibited building or obstruction or any part thereof that encroaches on the safety belt of, Kosovo Railways Infrastructure or other railway infrastructure that is connected to Kosovo Railways Infrastructure.

27.5 If a Person can demonstrate that it owns the land on which the prohibited level crossing, or the prohibited building or obstruction or any part thereof that encroaches on the safety belt of Kosovo Railways Infrastructure or other railway infrastructure that is connected to Kosovo Railways Infrastructure, is situated, it shall not have to meet the cost of, and shall receive compensation for, the removal of such building or obstruction or any part thereof.

Article 28

Warning Notice

28.1 If the Authority, having made reasonable investigations, is satisfied that a Person has become liable for an administrative fine pursuant to article 27 of this Law, or that a License, Safety Certificate or Permit should be revoked, it shall issue a written notice to such Person stating:

- a) the nature of the violation the Person is believed to have committed, the evidence supporting the belief that such violation has been committed, and the sanctions for and other potential consequences of such violation; or
- b) the reasons why the Authority believes the License, Safety Certificate or Permit should be revoked, and the circumstances that warrant such revocation if not remedied within the Warning Period;
- c) that the Authority may fine the Person or, if relevant, revoke the License, Safety Certificate or Permit, if the circumstances giving rise to the violation, or warranting the revocation of the License, Safety Certificate or Permit, are not remedied within the Warning Period; and
- d) that the Person has twenty-one (21) days to provide the Authority with a written statement of any matters it wishes to be taken into account in its defence, such as facts mitigating its liability and or any other relevant evidence.

28.2 At the end of the Warning Period, the Authority shall issue a decision to the Person stating:

- a) whether a violation has been committed and whether the circumstances giving rise to such violation have been remedied to the satisfaction of the Authority; or
- b) whether circumstances warranting the revocation of the License, Safety Certificate or Permit have been remedied to the satisfaction of the Authority; and
- c) if the circumstances giving rise to the violation or warranting the revocation of the License, Safety Certificate or Permit have not been remedied to the satisfaction of the Authority that:
 - (i) an administrative fine is imposed, the amount of such fine and when it is due and payable;
 - (ii) the cost of removing a level crossing or building or obstruction or any part thereof within the safety belt; and
 - (iii) the License, Safety Certificate or Permit is revoked.
- d) that the decision of the Authority can be reviewed upon application within one (1) month to the Supreme Court of Kosovo.

28.3 Any administrative fine other or costs imposed on a Person pursuant to this article shall be due and payable to the Authority:

- a) one (1) month after the date on which the decision was issued by the Authority; or
- b) if the Person has applied to the Supreme Court of Kosovo for a review the decision, ten (10) days after the Supreme Court of Kosovo delivered a decision upholding fully or in part the decisions of the Authorities.

28.4 Interest at the rate of five per cent per annum (5% pa) shall accrue on any amount outstanding under this article shall be added to that amount on the first day of every calendar month.

Article 29 **Publication of Decisions of the Authority**

The Authority shall inform every Person directly affected by any decision of the Authority relating to the issuance or revocation of a License, Safety Certificate or Permit, a dispute concerning a Track Access Agreement or any other matter set out in article 28 and the reasons for that decision, in writing within fourteen (14) days of making such decision. Such information shall be published by the Authority regularly, at least every six (6) months, and maintained at the business premises of the Authority for a period of five (5) years during which time it shall be available for inspection by the public during the business hours of the Authority.

Article 30 **Judicial Review**

30.1 Any Person, directly affected by any decision of the Authority relating to the issuance or revocation of a License, a Safety Certificate or Permit, a dispute concerning a Track Access Agreement or any matter set out in article 28, may apply to the Supreme Court of Kosovo for judicial review of that decision, provided that such application is made within 1 (one) month of the date the Person has been notified in writing of the relevant decision by the Authority.

30.2 A Train Operator may request the Supreme Court of Kosovo to suspend any decision of the Authority to revoke a License if the Train Operator intends to apply for the decision to be reviewed and can demonstrate that the effects of such revocation by the Authority would be irreversible in case the decision was overruled at a later stage by a competent Court. Any such suspension shall terminate upon the earlier of a decision of a competent Court or the expiry of the period in which the Person must apply to a competent Court for review.

30.3 In the event that a competent Court finds that the Person committed a violation or reduces the administrative fine previously imposed, the Authority shall repay all or the relevant part of the amount it received on account of the administrative fine together with any interest received by the Authority on the amount to be repaid.

CHAPTER VI

Transitional Provisions

Article 31 Train Operations

31.1 Any Person undertaking Train Operations in Kosovo on the date this Law enters into force shall be deemed to have a License or a Safety Certificate as required by this Law until:

- a) one hundred and twenty (120) days after the date on which the Authority has issued rules and prescribed forms enabling such Person to apply for a License or Safety Certificate pursuant to article 16; or
- b) on the date on which such License or Safety Certificate is revoked by the Authority pursuant to this Law, if such date occurs prior to the one hundred and twenty (120) days period.

31.2 Prior to the issuance of rules setting out the conditions of Licenses and Safety Certificates, any Person undertaking Train Operations in Kosovo shall comply with the conditions for a License and a Safety Certificate set out in article 17, as amended or supplemented by the Authority from time to time.

Article 32 Maintenance and Operation of Railway Infrastructure in Kosovo

32.1 Any Person maintaining and operating railway infrastructure in Kosovo on the date this Law enters into force shall be deemed to have a Permit until:

- a) one hundred and twenty (120) days after the date on which the Authority has issued a rule and prescribed forms pursuant enabling such Person to apply for a Permit; or
- b) on the date on which such Permit is revoked by the Authority pursuant to this Law, if such date occurs prior to the one hundred and twenty (120) days period. .

32.2 Prior to the issuance of a rule setting out the conditions of Permits, any Person maintaining and operating railway infrastructure in Kosovo shall comply with the conditions of a Permit set out in article 21.5 of this Law, as amended or supplemented by the Authority from time to time.

Article 33
Kosovo Railways

33.1 Within one hundred and twenty (120) days of the date this Law enters into force, the Train Operation of Kosovo Railways and the operation and maintenance of the Kosovo Railways Infrastructure shall be conducted through separate legal entities.

33.2 The Infrastructure Manager and the Kosovo Agency for Privatization shall enter into the Infrastructure Management Agreement within ninety (90) days of the date this Law enters into force.

CHAPTER VII

Miscellaneous

Article 34
Fees

34.1 A Person applying for the issuance of a License, Safety Certificate or Permit shall pay a non-refundable application fee to the Authority on the date the application is submitted to the Authority.

34.2 Every Person that has been issued with a License, Safety Certificate or Permit shall pay an annual fee to the Authority. The annual fees shall be set by reference to the expenses that the Authority anticipates it will incur in respect of issuing and monitoring Licenses, Safety Certificates and Permits set out in the budget proposal of the Authority.

34.3 The Board shall, after having consulted the Ministry of Finance and Economy, issue Administrative Directions specifying the amount of fees payable pursuant to this article.

Article 35
Applicable Law

This Law shall supersede any provision in the Applicable Law that is inconsistent with it.

Article 36
Implementation

The Board may issue sub-normative acts and orders to implement this Law.

Article 37
Entry into Force

This Law shall enter into force after the publication in the Official Gazette of the Republic of Kosovo.

Law No. 03/L-076
5 June 2008

President of the Assembly of the Republic of Kosovo

Jakup KRASNIQI