



**PKP POLSKIE LINIE KOLEJOWE S.A.**

Zarządca narodowej sieci linii kolejowych



# Handling of non-RU applicants by PLK

Warszawa, 12 October 2017



- Definition**
- Legal basis**
- Access conditions**
- Contracts**
- Charges**
- Financial guarantees**

# Definition

• **Applicant** - railway undertaking or an international economic interest grouping of railway undertakings or other entity interested in gaining capacity, in particular public transport operator, shipper, freight forwarder or combined transport operator [as defined in Polish Railway Act]

For the purpose of providing access to railway infrastructure IM may distinguish 2 types of applicants:

- **RU applicants** – applicants having the status of railway undertaking
- **Non-RU applicants** – all applicants other than railway undertakings

# Legal basis

## EU

- Commission Implementing Regulation (EU) 2015/10 of 6 January 2015 on criteria for applicants for rail infrastructure capacity and repealing Implementing Regulation (EU) No 870/2014
- Commission Implementing Regulation (EU) 2016/545 of 7 April 2016 on procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity

## PL

- Act of 16 November 2016 amending the Railway Act of 28 March 2003 and some other acts (effective from 30 December 2016) – implementing provisions of Directive 2012/34/EU
- Decree of Ministry of Infrastructure and Construction of 7 April 2017 on access to railway infrastructure

# Access conditions

To gain access to railway capacity non-RU applicant is obliged to:

- 1) conclude allocation contract with IM
- 2) indicate **at train path request** the licenced railway undertaking who is appointed to provide train service
- 3) additionally for passenger service – demonstrate to IM:
  - PSO contract or
  - declaration of public service organizer on intention to conclude PSC or
  - open access decision from RB

*Access conditions concerning non-RU applicants are included in PLK Network Statement 2018 and come into force from 10 December 2017*

# Contracts

Non-RU applicants are allowed to conclude 2 types of contracts with IM:

- **Contract of capacity allocation** – for one timetabling period - not subject of RB approval
- **Framework agreement** (contract for capacity reservation) - for more than one timetabling period, not longer than 5 years – must be approved by RB

*At present, PLK does not have any capacity allocation contracts or framework agreements concluded with non-RU applicants*

*Contract of use of allocated capacity may be concluded exclusively with railway undertakings*

# Charges

According to ministerial regulation:

- IM may collect from applicants:
  - ✓ **a charge for handling capacity allocation request**, if requested capacity is not allocated to applicant, excluding reasons caused by IM. The charge is set by IM as the quotient of the costs incurred to handle requests for capacity allocation and the number of applications submitted in the last year, amounting to no less than PLN 100. For TT 2018 PLK fixed this charge as 100 PLN.
  
- IM shall collect from applicants:
  - ✓ **reservation charge for non-use of allocated capacity** if non-RU applicant does not indicate a railway undertaking that uses the allocated capacity or indicated RU fails to conclude the contract of use. The reservation charge for non-use of allocated capacity is set at 100% of the basic charge for the planned train journey, but never less than 1 000 PLN.

## Financial guarantees

For non-RU applicants PLK applies the following requirements concerning financial guarantee:

- in case of positive rating or credit rating PLK shall not demand presentation of financial institutions guarantee provided that current receivables for delivered services will be paid by appointed RU within 60 days from the date of being due
- in case of negative rating or credit rating (or lack thereof), PLK has the right to demand the presentation of guarantees from financial institutions securing future receivables