

Country profile for:

Belgium

Completed by: Service public fédéral Mobilité et Transports
Vooruitgangstraat 56, 1210, Bruxelles.

Contact person: Wim Loenders (Wim.Loenders@mobiliteit.fgov.be)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	<ul style="list-style-type: none">- Belgium transposed the obligation set out in article 9 of directive 95/18/EC into national law in general wordings. To grant licenses for railway undertakings an administrative practice has been developed. Railway undertakings are compelled to submit an attestation of an insurance company stating that the railway undertaking is insured up to an imposed amount.- A ministerial decree fixed the amounts for freight and passenger transport.- A regulation for not Belgian license holders is forthcoming.

1.b If yes, please specify if it is a law or regulation?

Answer:	A regulation
Comments:	

2.a What is the name of the law/regulation?

Answer:	The Royal decree of 12 March 2003: Koninklijk besluit betreffende de voorwaarden voor het gebruik van de spoorweginfrastructuur (see article 27) The Ministerial decree of 28 July 2005: Ministerieel besluit tot vaststelling van het minimumbedrag voor de dekking van de burgerlijke aansprakelijkheid van spoorwegondernemingen.
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Yes
Comments:	

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Yes Property: Yes Passengers: Yes Luggage: Yes Mail: Yes Freight/Cargo: Yes Infrastructure: Yes Environment: Yes
Comments:	

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	
Comments:	The minimum level has been laid down after an analysis of real happened accidents to get a good comprehension of the costs caused by the accidents. Based on the analysed accidents catastrophe scenario's have been developed. The hypothetical damages have been calculated by changing the various parameters identified in the real cases analysis. Based on the above method a minimum level of coverage has been set at € 50.000.000 for goods trains and at €70.000.000 for passenger trains.

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	Yes.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	The above mentioned method gave different amounts of estimated damages on one hand for passenger transport: €70.000.000 and on the other hand for goods transport: €50.000.000. (cf. Question 5.b).
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes
Comments:	The Infrastructure Manager checks if the railway undertaking that got its license in another member state meets our national insurance requirements before they get access to the network.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes
Comments:	The Infrastructure Manager checks the obligation before allocating the train path.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	The access to the network shall be refused.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	
Comments:	There is no state guarantee in the field of insurance for railway undertakings or for the infrastructure manager. However, the possibility for a state guarantee is being examined in case of acts of terrorism.

10.a Information on licenses.

Answer:	Total number of licenses: 4 Hereof total number of licenses for: Goods transport: 4 Passenger transport: 1 Encumbant operators: 1 Cross-border operators: 2 International operators: 2 Total number of licenses (revoked): 1
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	unknown
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	2
Comments:	EON, Van Breda

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	We don't know exactly the total number of railway accidents which have resulted in payment of compensation.
Comments:	The accident in Pécrot on 27 March 2001 was a significant accident.

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	See attachment and question 2.a
Comments:	

Country profile for:

Bulgaria

Completed by: Railway Administration Authority (Ministry of T & C)
Diakon Ignatii str. 9, 1000, Sofia.

Contact person: Ekaterina Genova (KGenova@mt.government.bg)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes
Comments:	complete

1.b If yes, please specify if it is a law or regulation?

Answer:	Ordinance No 42 on of 6 July 2001 on licensing railway enterprises providing passenger and/or freight transport services and bodies issuing safety certificates (Published, SG No.. 67 of July 31, 2001)
Comments:	Secondary normative act to compliment the Law on Railway Transport

2.a What is the name of the law/regulation?

Answer:	Ordinance No 42 on of 6 July 2001 on licensing railway enterprises providing passenger and/or freight transport services and bodies issuing safety certificates (Published, SG No.. 67 of July 31, 2001)
Comments:	Secondary normative act to compliment the Law on Railway Transport

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Inexplicit question as to the object of insurance.
Comments:	

4.a **What liabilities should be insured according to national law/regulation?**
(Please answer "Yes" or "No")

Answer:	Third parties: Yes Property: Yes, rolling stock Passengers: Yes Luggage: Yes Mail: Yes Freight/Cargo: Yes Infrastructure: No Environment: No
Comments:	With respect to infrastructure and environment the question must be addressed to NRIC (the Bulgarian National Railway Infrastructure Company)

5.a **Is the insurance cover required for third party liability determined by the law/regulation?**

Answer:	Inexplicit question.
Comments:	

5.b **Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.**

Answer:	The Railway Transport Act does not specify this; different types of insurances are specified differently.
Comments:	

6.a **Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?**

Answer:	Inexplicit question.
Comments:	

6.b **If yes, please specify the insurance coverage requirements per type of operation.**

Answer:	Inexplicit question.
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Bulgaria is not for the time being a EU member, hence these requirements are not in force.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Bulgaria is not for the time being a EU member, hence not applicable.
Comments:	

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	Bulgaria is not for the time being a EU member, hence not applicable.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	Inexplicit question.
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No information available at BDZ EAD.
Comments:	

10.a Information on licenses.

Answer:	Total number of licenses: 3 Hereof total number of licenses for: Goods transport: 3 Passenger transport: 1 Encumbant operators: 3
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	<p>Cross-border operators: 0 International operators: 0</p> <p>Total number of licenses: 3</p>
Comments:	There are three licensed railway operators in Bulgaria. BDZ EAD is a licensed railway operator for passenger and freight transport; there are two other freight railway transport licensed operators.

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	No information available at BDZ EAD.
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	No information available at BDZ EAD.
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	For the last 2 years, 2005 and 2004, there were 30 accidents, registered through protocols by BDZ EAD that might have led to payment of compensation.
Comments:	(1) BDZ EAD have no available whether these accidents led to payment of compensation, the question must be addressed elsewhere (insurance companies); (2) Information on accidents is available with BDZ EAD only for 2005 and 2004, as in previous years the company was also an infrastructure manager; the question must also be addressed to NRIC (the Bulgarian National Railway Infrastructure Company).

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	
Comments:	

Country profile for:

Czech Republic

Completed by: Czech Rail authority
Wilsonova 80, 121 06, Praha 2.

Contact person: Pavel Kodym (kodym@du-praha.cz)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Act
Comments:	

2.a What is the name of the law/regulation?

Answer:	Act No. 266/1994 Coll. on rail systems
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	No.
Comments:	

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Property: Passengers: Luggage: Mail: Freight/Cargo: Infrastructure: Environment:
Comments:	According to law the categories of liability aren't determined.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	No.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	
Comments:	The level of the insurance is not described. The Act on rail systems only sets down the duty to have the insurance, pay the insurance premium and have this insurance effected and insurance premium paid for all the time of railway transport operation.

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No.The duty is set down generally for all types of railway undertakings. There are no differences as described in the question above.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	The duty is set down generally for all types of railway undertakings. There are no differences as described in the question above.
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes.
Comments:	Railway transport operation on infrastructure in the Czech Republic is possible only under these conditions: Railway undertaking has to have. i) valid licence; ii) effected insurance; iii) carrier certificate; iv) concluded contract on the operation of the railway transport, unless the rail road operator and the carrier is the same person. Fulfilment of all these conditions is checked by the Rail authority by providing state supervision in the matters of rail systems.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	Railway undertaking can operate rail transport only if national insurance requirements are met.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No.
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No, with regard to railway undertakings; Yes, with exceptions, with regard to infrastructure managers.
Comments:	Railway undertakings are the subjects of private law and regular members of market environment and that's why the state doesn't grant any guarantees. Railway Infrastructure Administration, state organisation, has taken over management of the railway infrastructure owned by the state.

10.a Information on licenses.

Answer:	Total number of licenses: 67 (licenced railway undertakings) Here of total number of licenses for: Goods transport: 49 Passenger transport: 18 Encumbant operators: Cross-border operators: International operators: 18 Total number of licenses (revoked): 0
Comments:	Certain railway undertakings have several licences for different types of operation.

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	There are six companies providing liability insurance for railway undertakings.
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	Number of insurance brokers isn't monitored in the Czech Republic.
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	This item isn't monitored in the Czech Republic.
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	<p>Act No.266/1994 Coll.</p> <p>Section 27a:</p> <p>(4) The railway undertaking shall be obliged to take out liability insurance policy against loss or damage caused by the operation of railway traffic.</p> <p>Subsection 35 (2), paragraph (d) and (e):</p> <p>(2) The railway undertaking holding a valid licence which operates the rail transport on a nation-wide railroad or a regional railroad shall be further obliged:</p> <p>d) to conclude, as of the day of launching the rail transport operation, the pertinent rail transport operation liability insurance, pay the insurance premium, and ensure that such insurance remain effective and the insurance premium be paid for the entire period of rail transport operations,</p> <p>e) to conclude, upon request by the Rail Administrative Authority, any information necessary to verify the continuance of liability insurance pertaining to the rail transport operation.</p>
Comments:	

Country profile for:

Denmark

Completed by: Trafikstyrelsen
Adelgade 13, 1304, Copenhagen.

Contact person: Helle Viltoft (hvi@trafikstyrelsen.dk)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	The Danish Act on Railway, chapter 7 contains rules regarding damages and insurance (The Danish Act on Railway, eg. lovbekendtgørelse nr. 1171 af 2. december 2004 med senere ændringer).
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	See answer above.
Comments:	

2.a What is the name of the law/regulation?

Answer:	Se above.
Comments:	Bekendtgørelse nr. 534 af 26/6/1997 om ikkraftræden af EF-direktiv om udstedelse af licenser til jernbanevirksomheder. Trafikmin., j.nr. 1994-712-9, Lovtidende A af 26/06/1997. Executive Order No. 534 of the Ministry of Transport on the entry into force of the EC Directive on the granting of licences to railway undertakings, Law Gazette of 26 June 1997.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	No, railway undertakings can not be self insured
Comments:	The infrastructure manager, BaneDanmark (which is a state company) is self-insured.

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Yes Property: Yes Passengers: Yes Luggage: Yes (handluggage) Mail: Freight/Cargo: Infrastructure: Environment:
Comments:	The above mentioned is regulated in the Danish Act on Railway. For further and more accurate information see §§ 13-18 in the Danish Act on Railway. Also see the law concerning the question on which basis the RU is liable.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes.
Comments:	The insurance minimum level is described in a departemental order.

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	A departemental order specifi a minimum coverage/amount, which is regulated each year (It is not based on an individual risk).
Comments:	By Departmental order on public liability insurance for damages in connection with railway operations and railway infrastructure management a minimum coverage of 300 million Dkr. (2004 level) is required (the minimum coverage for the period of February 15, 2006 to December 31, 2006 is 313 mio. Dkr., cp. Departemental order nr. 67 of February 7, 2006). This amount is only required for commercial companies (freight and passenger transport). Vintage railways are required to have coverage for 52 million Dkr. (2006 level) or less depending on what kind of vintage railway (differentiated by gauge).

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No
Comments:	Only between commercial operations and vintage operations. Otherwise there is no difference.

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes
Comments:	The National Rail Authority asks for insurance documentation.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	If a copy of the insurance policy in Danish is not provided the railway undertaking will not be allowed access to the network.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	Other than the law, the departmental orders and a guidance regarding RU license's issued in Denmark, there is no specific guidance regarding insurance. The National Railway Authority guide the RU very thoroughly in each case.
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No.
Comments:	There are no state guarantess for railway undertakings.

10.a Information on licenses.

Answer:	Total number of licenses: Hereof total number of licenses for: Goods transport: Passenger transport: Encumbant operators: Cross-border operators: International operators: Total number of licenses (revoked):
Comments:	At the moment 11 Railway Undertakings has a license issued in Denmark, and 10 infrastructure managers has a license issued in Denmark.

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	
Comments:	A copy of the Danish Act on Railway (in danish) is enclosed.

Country profile for:

Finland

Completed by: Ministry of Transport and Communications
Eteläesplanadi 16-18, P.O. Box 31 FIN - 00023, Helsinki.

Contact person: Pekka Kouhia (pekka.kouhia@mintc.fi)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Act.
Comments:	

2.a What is the name of the law/regulation?

Answer:	Railway Act (198/2003, §10)
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Yes
Comments:	Self-insurance (e.g. captive) has not been ruled out.

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Yes (in practice) Property: No Passengers: No Luggage: No Mail: No Freight/Cargo: No Infrastructure: No Environment: Yes (in some cases, where creosotes, oils etc. are handled)
Comments:	The railway company must have insurance according to the Railway Act (198/2003, 10§). The insurance or another arrangement (e.g. adequate solvency and/or sufficient risk-taking capability) has to cover the damages for which the operator may be deemed responsible.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	No.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	According to the law, the insurance must be sufficient. It is based on a case-by-case assessment. (Cf. 6.a)
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No. Not in the regulation.N.a. (Cf. 6.a)
Comments:	The matter is estimated based on how wide the operation is. In the law, the amount of the responsibility has not been determined with an exact sum, but it depends on the scope of the operation. The insurance must cover the responsibility caused by the operation on the whole. For the heritage railways the acceptable sum of insurance has been 2 M€.

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	N.a. (Cf. 6.a)
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes - but
Comments:	These cases have not yet occurred in Finland, but insurance requirements would be checked by the Ministry of Transport and Communications before giving access to the network. The license is denied, if the railway company has not a relevant insurance.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Not yet
Comments:	These cases are not yet occurred in Finland. In practice it will be checked when needed.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	If the requirements are not met the railway undertaking is not allowed to start its operations.
Comments:	Operation licence is not allowed to a such newcomer.

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No.
Comments:	There are no state guarantees for railway undertakings.

10.a Information on licenses.

Answer:	Total number of licenses: 1 Hereof total number of licenses for: Goods transport: Passenger transport: Encumbant operators: Cross-border operators: International operators: Total number of licenses (revoked): 0
Comments:	In Finland VR-Group Ltd is the only operator (until now)

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	One
Comments:	If the question above means, how many insurance companies have insured VR:s third party liabilities, the answer is one. But of course there are many companies which offer insurances.

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	None
Comments:	VR-Group Ltd has consulted some brokers, but VR and insurance company have made agreement directly.

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	One
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	
Comments:	

Country profile for:

Germany

Completed by: Bundesministerium für Verkehr, Bau- und Wohnungswesen
Robert-Shuman-Platz 1, 53175, Bonn.

Contact person: Marcia Heiseke (marcia.heiseke@bmvbw.bund.de)

DEUTSCHLAND

INFORMATIONEN ZU DEN LANDESPROFILIEN

Mit diesem Dokument wird versucht, ein Landesprofil für Ihr Land zu erstellen. Das Landesprofil wird in seiner endgültigen Form in den Abschlussbericht der Studie über die Versicherung von Eisenbahnverkehrsunternehmen in den 25 Mitgliedstaaten der EU, Bulgarien, Rumänien, Norwegen und der Schweiz eingehen. Zusätzlich werden die im Landesprofil enthaltenen Angaben für die Gesamtanalyse des Europäischen Eisenbahnversicherungsmarktes verwendet.

Das Dokument ist als Fragebogen konzipiert mit Fragen zum *rechtlichen Aufbau*, d.h. zu den Vorschriften, die den Eisenbahnversicherungsmarkt in Ihrem Land regeln, sowie Fragen zur *tatsächlichen Situation der Eisenbahnversicherung* in Ihrem Land, d.h. zu den zur Anwendung kommenden Praktiken bei der Anwendung der Vorschriften.

Bei einigen Landesprofilen wurden Angaben aus einer früheren, damit in Verbindung stehenden Studie – die von der Task force „Versicherung und Lizenzvergabe“ für die EU-Kommission durchgeführt wurde – bereits vorab eingefügt. Andere Landesprofile – z.B. Landesprofile für die nicht in der Studie der Task force enthaltenen Länder – sind leer.

Sie werden gebeten, das Landesprofil auszufüllen und nötigenfalls die darin enthaltenen Angaben zu überprüfen, zu korrigieren und/oder zu ergänzen.

Beachten Sie bitte, dass bei einigen Fragen spezifische Zahlenangaben erbeten werden. Sollten diese Angaben nicht vorliegen, geben Sie bitte einen fundierten Schätzwert an.

Bitte übersenden Sie das ausgefüllte Landesprofil zusammen mit dem diesen Landesprofilen beigelegten anderen Fragebogen entweder per Post, E-Mail oder Fax bis spätestens Montag, den 1. Mai 2006 an die untenstehende Anschrift.

Falls Sie noch Fragen haben, können Sie mich gerne kontaktieren.

Vielen Dank!

(Höflichkeitsformel)

gez.

Caroline Hartoft-Nielsen
CoProjektmanager

COWI A/S
Parallelvej 2
DK-2800 Kongens Lyngby

Tel.: +45 4597 2211
Durchwahl +45 4597 2467
Fax: +45 4597 2212
E-Mail: coh@cowi.dk
<http://cowi.dk>

1. a **Ist Artikel 9 der Richtlinie 95/18/EG in nationales Recht umgesetzt worden?**

Antwort:	Ja.
Anmerkungen:	

1. b **Wenn ja, machen Sie bitte Angaben dazu, ob es sich um ein Gesetz oder um eine Verordnung handelt?**

Antwort:	Verordnung
Anmerkungen:	

2.a **Wie heißt das Gesetz/ die Verordnung ?**

Antwort:	Eisenbahnhaftpflichtversicherungsverordnung (EBHaftPflV).
Anmerkungen:	

3. a **Können nach diesem Gesetz/ dieser Verordnung Eisenbahnverkehrsunternehmen selbstversichert sein?**

Antwort:	Nein.
Anmerkungen:	Eisenbahnverkehrsunternehmen müssen bei einem nach § 1 EBHaftPflV befugten Versicherer eine Versicherung abschließen.

4. a **Welche Schäden müssen nach dem nationalen Gesetz/ der nationalen Verordnung versichert werden? (Bitte antworten Sie mit „Ja“ oder „Nein“)**

Antwort:	Drittschäden: Ja Sachschäden: Ja Personenschäden: Ja Gepäck: Ja Post: Nein Fracht: Nein Infrastruktur: Ja Umwelt: Ja
Anmerkungen:	Die Haftung für Gepäck ist nach § 1 Abs. 3 EBHaftPflV ausgenommen.

5. a **Ist die für die Haftpflicht geforderte Versicherungsdeckung für Drittschäden im Gesetz/ in der Verordnung geregelt?**

Antwort:	Ja.
Anmerkungen:	

5. b **Bitte machen Sie nähere Angaben, ob das Gesetz eine feste Summe, eine Mindestdeckung/eine Mindestsumme angibt oder eine Fall-zu-Fall Bewertung verlangt, z.B. in Form einer Risikobewertung.**

Antwort:	Die EBHaftPflV sieht eine Mindestdeckungssumme von 10 225 837,62 € je Schadensereignis vor. Sie muss für jede Versicherungsperiode (pro Jahr) zweimal zur Verfügung stehen. Die Summe beruht auf Risikobewertungen.
Anmerkungen:	

- 6.a **Hängen die Versicherungsanforderungen (vgl. Frage 5.b) von der Art des Eisenbahnbetriebs ab?**

Antwort:	Die Versicherungspflicht besteht zur Deckung der durch Unfälle <u>beim Betrieb</u> einer Eisenbahn verursachten Personen- und Sachschäden. Sie besteht für Eisenbahnverkehrsunternehmen, Eisenbahninfrastrukturunternehmen und Halter von Eisenbahnfahrzeugen. Ausnahmen davon sind in § 1 Abs. 2, 3 und 5 EBHaftPflV geregelt.
Anmerkungen:	

6. b **Wenn ja, machen Sie bitte nähere Angaben zu den Bestimmungen für die Versicherungsdeckung je nach Betriebstyp.**

Antwort:	Eine Versicherungspflicht besteht grundsätzlich für Eisenbahnen (Eisenbahnverkehrsunternehmen und Eisenbahninfrastrukturunternehmen), die dem öffentlichen Verkehr dienen. Eisenbahnen, die nicht dem öffentlichen Verkehr dienen, benötigen ebenfalls eine Haftpflichtversicherung, wenn sie eine Eisenbahninfrastruktur benutzen oder betreiben, die dem öffentlichen Verkehr dient.
Anmerkungen:	

- 7.a **Wird bei einem Eisenbahnverkehrsunternehmen, das seine Lizenz in einem anderen Mitgliedstaat erhalten hat und das die Eisenbahninfrastruktur Ihres Landes benutzen möchte, geprüft, ob es die nationalen Versicherungsanforderungen erfüllt?**

Antwort:	Ja.
Anmerkungen:	

7. b **Gibt es Verfahren, um zu prüfen, ob die Inhaber von Lizenzen, die in einem anderen Mitgliedstaat gewährt wurden, die inländischen Versicherungsanforderungen erfüllen?**

Antwort:	Ja.
Anmerkungen:	Ausländische Eisenbahnverkehrsunternehmen müssen vor der erstmaligen Benutzung der Eisenbahninfrastruktur der zuständigen Aufsichtsbehörde ihre Lizenz und die Versicherungspolice vorlegen. Die Einhaltung der deutschen Vorschriften wird durch das Eisenbahn-Bundesamt als der zuständigen Aufsichtsbehörde im Rahmen seiner Aufgaben geprüft. Wenn die deutschen

	Vorschriften nicht erfüllt werden, ist das Eisenbahn-Bundesamt ermächtigt, verschiedene Maßnahmen, z.B. die Zahlung von Zwangsgeld, zu ergreifen.
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7. c **Welches sind die Konsequenzen, wenn die nationalen Versicherungsanforderungen nicht erfüllt werden?**

Antwort:	Wenn die Versicherung die nationalen Anforderungen nicht erfüllt, darf das ausländische Eisenbahnverkehrsunternehmen die deutsche Eisenbahninfrastruktur nicht benutzen.
Anmerkungen:	

8. a **Hat die Genehmigungsbehörde einen Leitfaden zur Haftpflichtversicherung veröffentlicht?**

Antwort:	Nein
Anmerkungen:	

9. a **Gibt es staatliche Garantien (im Hinblick auf das Eisenbahnverkehrsunternehmen oder den Infrastrukturbetreiber usw.)? Bitte machen Sie nähere Angaben.**

Antwort:	Nein.
Anmerkungen:	

10.a **Angaben zu den Lizenzen**

Antwort:	Gesamtzahl der Lizenzen: ca. 560 davon Lizenzen für: Güterverkehr: ca. 390 Personenverkehr: ca. 380 Bereits etablierte Betreiber: ca. 35 Grenzüberschreitende Betreiber: ca. 4 Internationale Betreiber: ca. 340 Gesamtzahl der (entzogenen) Lizenzen: ca. 30
Anmerkungen:	Da Eisenbahnverkehrsunternehmer sowohl Personen- als auch Güterverkehrslizenzen besitzen können, ist die Summe dieser Werte größer als die Gesamtzahl der Lizenzen.

11. a **Gesamtzahl der Versicherungsunternehmen, die Haftpflichtversicherungen für Eisenbahnverkehrsunternehmen anbieten.**

Antwort:	keine Angaben möglich
Anmerkungen:	Vorschlag: Anfrage bei dem Gesamtverband der deutschen Versicherungswirtschaft e.V.

11. b **Gesamtzahl der Versicherungsmakler, die mit der Haftpflicht von Eisenbahnverkehrsunternehmen befasst sind.**

Antwort:	keine Angaben möglich
Anmerkungen:	Vorschlag: Anfrage bei dem Gesamtverband der deutschen Versicherungswirtschaft e.V.

12. a **Gesamtzahl der Eisenbahnunfälle innerhalb der letzten fünf Jahre, die zu Entschädigungszahlungen geführt haben.**

Antwort:	keine Angaben möglich
Anmerkungen:	

13. a **Bitte fügen Sie, wenn möglich, eine Abschrift des Gesetzes/der Verordnung in Englisch bei, mit dem/mit der Artikel 9 der Richtlinie 95/18/EG in nationales Recht umgesetzt wird.**

Antwort:	EBHaftPflV liegt nicht in englischer Sprache vor.
Anmerkungen:	

Country profile for:

Hungary

Completed by: Ministry of Economy and Transport of the Republic of Hungary
Margit krt. 85, 1880, Budapest.

Contact person: Erika Tarr (tarr.erika@gkm.gov.hu)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Act and ministerial decrees
Comments:	

2.a What is the name of the law/regulation?

Answer:	Act Nr. CLXXXIII/2005. on Rail Transport Decree Nr. 15/2002. of the Minister of Transport and Water Management on Licensing of Railway Undertakings Decree Nr. 51/2004. of the Minister of Economy and Transport on Rail Safety Certificate – as regards the specific condition of national insurance requirement for additional safety certificate
Comments:	New decree on Licensing of Railway Undertakings has been drafted due to the fact that the (new) Act on Rail Transport coming into effect on 1 January 2006 entitles the Hungarian Rail Office to issue railway licenses. The draft has been under negotiations. The Hungarian Rail Office was established on 1 January 2006. New decree on Rail Safety Certificate has also been drafted to ensure the compliance with the (new) Act on Rail Transport and the safety directive 2004/49/EC. The draft has been under negotiation.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Yes
Comments:	

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: yes Passengers: yes Carrier: yes
Comments:	According to the point C of the 6 th § of the Decree on Licensing of Railway Undertakings, one of the requirements for the financial performance of railway undertakings is the following: Railway undertakings shall be able to refund the damages for which they are responsible for passengers, carriers and third party with liability insurance or equivalent measure to it (financial assurance or equivalent guarantee).

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	No
Comments:	Although the Decree on Licensing of Railway Undertakings does not determine a fixed amount of insurance cover, the Central Inspectorate of Transport has required to have a minimal cover of 150 Million HUF for railway undertakings.

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	No fixed amount determined in the decree
Comments:	See 5a

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	—
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes
Comments:	<p>According to the point 6 b) of 3rd § of the Decree on Rail Safety Certificate, the rail safety authority examines whether the railway undertaking holding a licence of another Member State meets one of the requirements for Additional Safety Certificate. It determines that railway undertaking shall apply the national safety rules and TSIs in order to fulfill specific conditions necessary for the safe operation on the domestic network.</p> <p>National insurance requirement is considered as a specific condition.</p>

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes
Comments:	See 7a and 5a

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	It does not get the Additional Railway Safety Certificate.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	Yes
Comments:	Title: Guidelines on the Licensing Procedure of Railway Undertakings

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No
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Comments:	
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10.a Information on licenses.

Answer:	<p>Total number of licenses: 8</p> <p>Hereof total number of licenses for:</p> <p>Goods transport: 7</p> <p>Passenger transport: 2 – incumbent operators</p> <p>Incumbent operators: 2</p> <p>Cross-border operators: 0</p> <p>International operators: 7</p> <p>Total number of licenses (revoked): 8</p>
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	4
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	5
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	No information available
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	
Comments:	

Country profile for:

Ireland

Completed by: Department of Transport
44 Kildare Street, Dublin 2

Contact person: Dave Garland (davegarland@transport.ie)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Regulation
Comments:	

2.a What is the name of the law/regulation?

Answer:	Regulations 5 (2) (e) & 6 (1) (b) of Statutory Instrument No. 238 of 1999, European Communities (licensing of railway undertakings) Regulations 1999.
Comments:	Statutory Instrument No. 238 of 1999 has since been revoked by Statutory Instrument No 537 of 2003, European Communities (Licensing of Railway Undertakings) Regulations 2003, which transposed Directive 2001/13.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Yes
Comments:	Where a measure of re-insurance has been effected by external events, CIE (Irish Rail) have encountered “distressed insurers” and lost some coverage, as they go into administration.

4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")

Answer:	Third parties: Property: Passengers: Luggage: Mail: Freight/Cargo: Infrastructure: Environment:
Comments:	None of these are compulsory for railway undertakings. We also have exemption for compulsory motor insurance under national law and relevant EU Directives.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	n/a
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	n/a
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	n/a
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	n/a
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Currently there are no administrative procedures to carry out these checks and there has been no official application to use the network to date.
Comments:	Under the current Licensing Regulations (SI 537 of 2003), possession of a licences does not in itself entitle a railway undertaking to access to the State's railway infrastructure. Any new applicant railway undertaking must comply with the requirements of these regulations, which includes the provision of appropriate written proof of adequate insurance cover, including cover for civil liability.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	As at Q7a
Comments:	

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	The Minister is designated in accordance with Article 3 of the Principal Directive (Dir 95/18) as the body responsible for issuing licences and for carrying out the obligations imposed on the State by the Principal Directive. The Minister, as the Licensing Authority, can suspend or revoke a licence where he or she is satisfied that the licensee can no longer satisfy the requirements specified in the Regulations referred to in Q 7.a
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No
Comments:	There are no state guarantees with regard to third party liability

10.a Information on licenses.

Answer:	<p>Total number of licenses: 0</p> <p>Hereof total number of licenses for:</p> <p>Goods transport:</p> <p>Passenger transport:</p> <p>Encumbant operators:</p> <p>Cross-border operators:</p> <p>International operators:</p> <p>Total number of licenses (revoked): 0</p>
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	All those licensed under EU law may do so but there are six specialist lead underwriters who tender for our business through the public procurement process.
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Comments:	
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11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	Approximately six in Ireland.
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	
Comments:	Please clarify if the term railway accidents is that which is defined in the Eurostat Regulation, EC No 1192/2003? It must be understood that some information concerning railway accidents can be considered commercially sensitive.

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	YES
Comments:	<p data-bbox="331 280 622 347">SI 238 of 99 Application for licence.</p> <p data-bbox="678 358 1385 465">5. (1) Each applicant railway undertaking shall comply with the requirement of the Directive and with the requirements imposed by or under this Regulation.</p> <p data-bbox="678 488 1393 595">(2) An application for a licence shall be in such form as the Minister may from time to time direct and shall be accompanied by the following:</p> <p data-bbox="678 618 1350 685">(e) appropriate written proof of cover for civil liability in accordance with Article 9;</p> <p data-bbox="331 734 494 768">SI 537 of 2003</p> <p data-bbox="331 801 651 835">5.Application for licence</p> <p data-bbox="331 880 1409 947">(3) An application for a licence shall be in such form as the Minister may from time to time direct and shall be accompanied by the following:</p> <p data-bbox="331 992 1042 1025">(e) appropriate written proof of cover for civil liability;</p> <p data-bbox="331 1059 1401 1205">(h) appropriate written proof that the applicant railway undertaking maintains adequate insurance cover, or has made arrangements having equivalent effect, covering its liabilities in the event of accident to passengers, luggage, freight, mail, and third parties;</p>

Country profile for:

Latvia

Completed by: State Railway Administration
Riepnieku Str. 2, 1050, Riga

Contact person: Maris Ankalnins (maris.ankalnins@sam.gov.lv)

Re: Questionnaire on insurance of railway undertakings

Dear Ms. Caroline Hartoft-Nielsen,

We appreciate your efforts to evaluate the stakeholder's opinion on the question on insurance of railway undertakings. Latvian Railway Administration was one of the participants in the European Commission's experts working group because this question has a very high importance for our railway companies.

Unfortunately, at the moment we are not able to give the answers to the questionnaire due to the different system in the matter of liability coverage of railway undertakings in Latvia.

According to Article 8 of the Council Directive No 95/18/EC Member States are free to choose the type of liability coverage for railway undertakings, i.e., insurance or other equivalent arrangement. According to Latvian national regulations railway undertakings must have sufficient financial and material resources to cover the possible damage. In Latvia the limit for coverage in the moment is set up at € 430,000.

While the most part of our railway companies use the above mentioned type for coverage we had one or two cases when railway operators used insurance instead of the previous system. In the present limits set up in Latvia it is possible to cover the railway undertaking's liability by insurance too.

Our position in the European Commission experts working group was to maintain the existing system according to Directive 95/18/EC and to allow the Member States to choose the most suitable and costless system for railway undertakings liability coverage.

Also we did not support the proposal for minimum insurance amount for railway undertakings in the European Union. The differences in the liability coverage systems used in the Member States as well as the very huge differences in the costs connected with the coverage of damages do not allow using the same insurance amount in different countries.

Additionally, in connection with railway undertakings liability coverage we would like to stress on the additional questions also discussed in the Commission's working group: liability coverage in the case of terrorist attack and the accidents in the rail crossings. These questions also from our point of view should be evaluated and possibly included in the railway directives.

Yours sincerely,

Maris Ankalnins
Senior expert,
State Railway Administration
Latvia Republic

T. +371 7028348

F. +371 7028306

Country profile for:

Lithuania

Completed by: State Railway Inspectorate
P. Višinskio g. 34, 5400, Šiauliai

Contact person: Dainius Mazėtis (d.mazetis@vgi.lt)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Law.
Comments:	

2.a What is the name of the law/regulation?

Answer:	Railway Transport Code of the Republic of Lithuania
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	No.
Comments:	

4.a What liabilities should be insured according to national law/regulation?

(Please answer "Yes" or "No")

Answer:	Third parties: Yes. Property: Yes. Passengers: Yes. Luggage: Yes. Mail: Yes. Freight/Cargo: Yes. Infrastructure: Yes. Environment: Yes.
Comments:	

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes. Law.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	Case by case assesment.
Comments:	Railway Transport Code stipulates, that any railway undertaking <u>must</u> : “have bank guarantees or suretyship insurance valid throughout the whole period of its economic and commercial activity. In this case, the railway undertaking (operator) must have bank guarantees or suretyship insurance for an amount that would at any time ensure compliance with its actual obligations and cover for its civil liability in the case of an insured event in respect of passengers, third parties or their assets, luggage, freight, postal items, the environment or public railway infrastructure.”

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	No.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	No.
Comments:	

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	State Railway Inspectorate has a right to suspend or withdraw license for licensing rules violation.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No.
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No.
Comments:	

10.a Information on licenses.

Answer:	Total number of licenses: 11 Hereof total number of licenses for: Goods transport: 6 Passenger transport: 5 Incumbent operators: Cross-border operators: International operators: Total number of licenses (revoked): 0
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	N/A
Comments:	There are at least two lithuanian companies which insured railway undertakings license holders.

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	N/A
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	N/A
Comments:	Difficult to say, as some accidents, which were caused by infrastructure fault were not covered by insurance. Since year 2001 there were 4 bigger railway accident.

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	3. A railway undertaking (operator) applying for a licence to engage in economic and commercial railway transport activities must: 1) meet the requirements relating to financial capability, good repute and
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	<p>professional competence;</p> <p>2) have bank guarantees or suretyship insurance valid throughout the whole period of its economic and commercial activity. In this case, the railway undertaking (operator) must have bank guarantees or suretyship insurance for an amount that would at any time ensure compliance with its actual obligations and cover for its civil liability in the case of an insured event in respect of passengers, third parties or their assets, luggage, freight, postal items, the environment or public railway infrastructure.</p>
Comments:	Railway Transport Code of the Republic of Lithuania, article 10

Luxembourg

Completed by: Ministère des Transports
11, rue Notredame, L-2938 Luxembourg
Contact person: Frank Reimen

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Law and regulation
Comments:	

2.a What is the name of the law/regulation?

Answer:	<ul style="list-style-type: none">- Loi du 11 juin 1999 relative à l'accès à l'infrastructure ferroviare et à son utilisation.- Règlement grand-ducal du 24 octobre 2003 sur les conditions de délivrance et de validité des certificats de sécurité pour les entreprises ferroviaires.- Règlement grand-ducal du 24 octobre 2003 sur les conditions de délivrance et de validité des licences des entreprises ferroviaires.
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Yes
Comments:	Article 11 of the "Loi du 11 juin 1999 relative à l'accès à l'infrastructure ferroviaire et à son utilisation".

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Yes Property: Passengers: Yes Luggage: Mail: Freight/Cargo: Yes Infrastructure: Yes Environment:
Comments:	

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	No
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	L'entreprise ferroviaire doit rapporter la preuve qu'elle dispose de moyens financiers suffisants pour assumer à tout moment les conséquences financières de sa responsabilité civile, pour le moins dans le respect des dispositions internationales régissant la responsabilité civile dans le domaine du transport ferroviaire. Cependant aucun seuil minimal de couverture n'est prévu par la législation luxembourgeoise.
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No. N.a.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	N.a.
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Comments:	
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7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes.
Comments:	En vue d'obtenir le certificat de sécurité, l'entreprise requérante, qui n'est pas titulaire d'une licence luxembourgeoise, doit faire établir par un réviseur d'entreprises qu'elle dispose de moyens financiers suffisants pour assumer à tout moment les conséquences financières de sa responsabilité civile à l'égard du propriétaire du réseau luxembourgeois et du gestionnaire de l'infrastructure ferroviaire ainsi qu'à l'égard de ses clients et des tiers dans les limites fixées par les dispositions internationales régissant la responsabilité civile dans le domaine des transports ferroviaires.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	No safety certificate will be issued to the railway undertaking.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	
Comments:	

10.a Information on licenses.

Answer:	<p>Total number of licenses: 1</p> <p>Hereof total number of licenses for:</p> <p>Goods transport: 1</p> <p>Passenger transport: 1</p> <p>Encumbant operators: 1</p> <p>Cross-border operators:</p> <p>International operators:</p> <p>Total number of licenses (revoked): 0</p>
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	
Comments:	

Country profile for:

Netherlands

Completed by: Netherlands Railway Safety Authority
St. Jacobsstraat 1b, 3511, BM Utrecht

Contact person: Andres Wedzinga (Andres.wedzinga@ivw.nl)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Obligation in the Railway Act.
Comments:	

2.a What is the name of the law/regulation?

Answer:	The Railway Act
Comments:	Spoorwegwet, Stb. 2003, 264, in force since 01-01-2005 ("Railway Act")

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	No
Comments:	Article 55 of the Act

4.a What liabilities should be insured according to national law/regulation?

(Please answer "Yes" or "No")

Answer:	Third parties: yes Property: yes Passengers: yes Luggage: yes Mail: yes Freight/Cargo: yes Infrastructure: yes Environment: yes
Comments:	"Third party liability" without further details. There is no restriction to "accidents" as in the Directive

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	Fixed minimum coverage of € 10.000.000, laid down in Regulation based on the Railway Act.
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	There are no differences for normal train operations. Lower coverage of € 2.500.000 is permitted for local shunting operations (industrial shunters for wagon exchange) and works machinery on tracks under engineers possession.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	Lower coverage of € 2.500.000 is permitted for local shunting operations (industrial shunters for wagon exchange) and works machinery on tracks under engineers possession.
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	No, formally, there is no check, but...
Comments:	In practice the safety authority before issuing a safety certificate and the infrastructure manager before signing a track access agreement check.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Not formally, but
Comments:	check of copy of licence appendic, copy of policy

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	No experience, as
Comments:	NL requirement is equal to or less than those in its neighbouring states

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	Where necessary, personal guidance is giving within the guidance asked for in the Directive 2004/49

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No, not in a formal way. But...
Comments:	The national passenger train operator (NS) and the infrastructure manager (Prorail) are fully state owned companies.

10.a Information on licenses.

Answer:	Total number of licenses: 17 Hereof total number of licenses for: Goods transport: not strictly separated; some do both; also licences for other purposes Passenger transport: not strictly separated; some do both Encumbant operators: not recorded in licence Cross-border operators: not recorded in licence International operators: not recorded in licence Total number of licenses (revoked): 0
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	Unknown
Comments:	Some are underwriting directly, others (including some foreign ones) only through brokers acting on the Exchange for part of a policy

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	Unknown
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	Unknown
Comments:	Such data are not registered structurally

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	<p>Article 55, Railway Act</p> <ol style="list-style-type: none"><li data-bbox="322 362 1450 463">1. The train operator that operates on the main rail system is obliged to take and maintain insurance for that operations, to cover the financial risks resulting from third party liability adequately.<li data-bbox="322 488 1450 589">2. A Royal Decree can set amounts above which the obligation of insurance does not extend. Separate amount can be set according, amongst others, the kind of occasion, the kind of damage, the grounds of liability and the kind of organisation.
Comments:	

Country profile for:

Poland

Completed by: Prezes Urzędu Transportu Kolejowego (Office for Railway Transport)
ul. Chałubińskiego 4, 00-928, Warszawa

Contact person: Piotr Cukierski (piotr.cukierski@utk.gov.pl)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	YES.
Comments:	<p>The solution laid down in the Railway Transport Act are based on common standards suggested by the Council Directive 95/18/EC of 19 June 1995 on licencing of railway undertakings, and the Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on licencing of railway undertakings.</p> <p>General acts, regulating third party liability insurance system for particular types of transport in Poland, doesn't apply to railway transport market. The only act that refers directly to insurance of activity in railway sector is the the Act of 28 March 2003 on Railway Transport (Journal of Laws of 2003, No. 86, position 789, with amendments). General principle in this area is laid down in chapter 8 of above mentioned act, entitled "Railway Transport Licencing". Article 46 states that "<i>railway undertaking applying for granting the licence, have to meet the requirement concerning civil liability</i>". This requirement is fulfilled when the undertaking applying for granting the licence has "<i>pecuniary claims associated with the performed activity secured or will commit itself to insure the activity subject to licence, before starting this activity</i>". According to legal interpretation of mentioned articles, this requirement is fulfilled when railway undertaking has separated bank deposit or bank guaranty for the purpose of third party liability, or insurance of the activity covered by the licence.</p>

1.b If yes, please specify if it is a law or regulation?

Answer:	LAW.
Comments:	<p>The Act of 28 March 2003 on Railway Transport is a general law regulating wide range of issues concerning railway sector in Poland. It is supplemented by detailed secondary legislation regulating different areas of activity including licencing of railway undertakings, although solutions concerning insurance are described only in the Act on Railway Transport.</p>

2.a What is the name of the law/regulation?

Answer:	<ul style="list-style-type: none"> • (EN) The Act of 28 March 2003 on Railway Transport (Journal of Laws of 2003, No. 86, position 789, with amendments) • (PL) Ustawa z dnia 28 Marca 2003 r., o transporcie kolejowym (Dz. U. z 2003 r., Nr 86. poz. 789 z późn. zm.)
Comments:	NOT APPLICABLE.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	YES.
Comments:	As it was mentioned above, the Act of 28 March 2003 on Railway Transport impose only the obligation of meeting the requirement of civil liability in railway transport without specifying the ways how to achieve this aim. Legal interpretations supplement the system by specifying methods of meeting the requirement concerning civil liability. On these basis, railway undertakings can be insured by insurance companies existing on the market or can self insure their activity in forms of bank guaranties or special bank deposits.

4.a What liabilities should be insured according to national law/regulation? (Please answer "Yes" or "No")

Answer:	Third parties: YES Property: Not relevant in terms of licensing Passengers: Not relevant in terms of licensing Luggage: Not relevant in terms of licensing Mail: Not relevant in terms of licensing Freight/Cargo: Not relevant in terms of licensing Infrastructure: Not relevant in terms of licensing Environment: Not relevant in terms of licensing
Comments:	The scope of the insurance that railway undertaking should have to obtain a licence is clearly linked with third party liability as described in the Directive 95/18/EC, amended by the Directive 2001/13/EC. On the basis of the act on railway transport, the Office for Railway Transport as licensing authority is interested only in this kind of insurance. Other areas can be insured by railway undertakings on the basis of the requirements of other national and international regulations, but they aren't relevant in terms of licensing.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	YES/NO
Comments:	On one hand, according to the Act of 28 March 2003 on Railway Transport, the “ <i>railway undertaking applying for granting the licence, have to meet the requirement concerning civil liability</i> ”. That means that a kind of coverage is required. On the other hand, the act impose only the obligation of meeting the requirement of third party liability, but it doesn’t specify its form or the minimum or maximum coverage level. According to interpretations of the act on railway transport, the requirement concerning third party liability is fulfilled, when railway undertaking has separated bank deposit or bank guaranty for the purpose of third party liability, or insurance of the activity covered by the licence. In case of insurance or bank guaranty, the minimum levels of coverage are determined individually for each railway undertaking during negotiations with insurance companies or banks. The level of bank deposits are determined together by interested railway undertaking and the Office for Railway Transport in the course of licensing procedure. According to the statistics in the first quarter of previous year, most of Railway Undertakings were insured by insurance companies. Only two companies had special bank deposits or bank guaranties for the purpose of third party liability.

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	NO.
Comments:	The law doesn’t specify fixed or minimum or maximum amount of coverage or a case by case assesment. In case of insurance or bank guaranty, the minimum levels of coverage are determined individually for each railway undertaking during negotiations with insurance companies or banks. The level of bank deposits are determined together by interested railway undertaking and the Office for Railway Transport in the course of licensing procedure.

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	NO.
Comments:	General requirements specified in the Act of 28 March 2003 on Railway Transport concerning civil liability of railway undertakings apply to all types of railway operations. There is no distinction between types of operations (passenger/freight) scope of activity (conventional goods/dangerous goods) or range of operations (regional/national) in terms of insurance requirements. The specific requirements concerning separate Railway Undertakings are determined during negotiations with insurance companies or banks, taking into consideration above mentioned factors.

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	NOT APPLICABLE.
Comments:	NOT APPLICABLE.

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	NOT APPLICABLE.
Comments:	The Railway Undertaking licensed in another Member State, before starting its activity in Poland is checked only if it meets the general requirement of being insured based on the Directive 95/18/EC, amended by the Directive 2001/13/EC. It's because the legal system in Poland doesn't set any specific national insurance requirements.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	NOT APPLICABLE.
Comments:	Due to the fact, that legal system in Poland doesn't set any specific national insurance requirements, the Office for Railway Transport just checks if railway undertaking meets general requirement of being insured. It's a part of a general procedure of checking if foreign railway undertaking fulfils all of the requirements to operate in Poland (licensing requirements, safety requirements, technical requirements and other).

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	NOT APPLICABLE.
Comments:	The legal system in Poland doesn't set any specific national insurance requirements.

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	NO
Comments:	A guidance is going to be worked out after implementation of international advisory project in the Office for Railway Transport, that starts in June 2006.

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	NO.
Comments:	There are no state guarantees relating to railway undertakings or infrastructure managers.

10.a Information on licenses.

Answer:	<p>Total number of licenses: 70 Total number of Railway Undertakings: 60</p> <p>Hereof total number of licensed Railway Undertakings:</p> <p>Goods transport: 46 Passenger transport: 4 Passenger and goods: 10 Encumbant operators: Doesn't apply. Cross-border operators: Doesn't apply. International operators: Doesn't apply.</p> <p>Total number of licenses (revoked): 0</p>
Comments:	<p>According to the Act of 28 March 2003 on Railway Transport, there are separate licence documents for transport of goods and for transport of passengers. The undertaking providing both services have to obtain both licence documents. That's why the number of licences is different than the number of licensed Railway Undertakings. The figures mentioned above doesn't include Railway Undertakings that have licences for providing acces to traction vehicles (which is also subject to licence according to Polish legislation) and narrow-gauge Railway Undertakings licensed in Poland. All licences issued on the basis of the Act of 28 March 2003 on Railway Transport are international and valid for cross-border and international operations, due to the fact that they are based on solutions laied down in the Directive 95/18/EC, amended by the Directive 2001/13/EC. Six out of sixty of mentioned licensed railway undertakings constitute the PKP Group, build on the basis of former state owned company PKP. Three of them provide national services: PKP Intercity, PKP Regional Services and PKP Cargo, two of them operate locally within Warsaw agglomeration – PKP WKD and Gdansk-Sopot-Gdynia agglomeration – PKP SKM and one of them operates only on wide-gauge infrastructure – PKP LHS.</p>

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	NOT APPLICABLE.
Comments:	<p>The Office for Railway Transport doesn't posses this kind of data, but accordance with questionnaire filled up by separate Railway Undertakings in the beginning of 2005, there is lack of insurance companies ready to provide diversified insurance offer designed for railway mareket. That's why separate railway undertakings have to cooperate with diferent insurance companies to get comprehensive insurance that they are interested in. Another problem mentioned in the questionnaire is that premiums are usually too high when we compare them to the coverage level offered by separate insurance companies in Poland.</p>

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	NOT APPLICABLE.
Comments:	The Office for Railway Transport does't posses this kind of data.

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	NOT APPLICABLE.
Comments:	The Office for Railway Transport performs the function of national regulatory body and safety authority for railway transport at the same time. As the safety authority, the office collects data on each railway occurrence, but without information on cases resulted in payment of compensation. According to general information, financial loss in biggest railway accident in Poland that happened within last six years was assessed at the level of € 1,1 M. (Passenger train has ran into derailed wagons of freight train, that were blocking the track, with estimated speed of 110 kmph.)

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	AVAILABLE IN POLISH ONLY.
Comments:	Chapter 8 of the Act of 28 March 2003 on Railway Transport enclosed.

Rozdział 8 Licencjonowanie transportu kolejowego

Art. 43

1. Działalność gospodarcza polegająca na wykonywaniu przewozów kolejowych osób lub rzeczy albo na udostępnianiu pojazdów trakcyjnych podlega licencjonowaniu.
2. Licencja jest potwierdzeniem zdolności przedsiębiorcy do wykonywania funkcji przewoźnika kolejowego.
3. ⁽¹⁾Potwierdzeniem zdolności przedsiębiorcy do wykonywania funkcji przewoźnika kolejowego są również licencje wydane przez właściwe władze innych państw członkowskich Unii Europejskiej lub państw członkowskich Europejskiego Porozumienia o Wolnym Handlu (EFTA) - stron umowy o Europejskim Obszarze Gospodarczym.
4. Licencje wydaje się na czas nieokreślony.
5. Licencja nie uprawnia przedsiębiorcy do dostępu do infrastruktury kolejowej.
6. ⁽²⁾

Art. 44

Obowiązkowi uzyskania licencji nie podlegają przedsiębiorcy wykonujący przewozy w obrębie bocznicy kolejowej lub stacji kolejowej.

Art. 45

1. Organem właściwym do udzielania, odmowy udzielania, zmiany lub cofnięcia licencji jest Prezes UTK.
2. Udzielenie, odmowa udzielenia, zmiana lub cofnięcie licencji następuje w drodze decyzji.

Art. 46

Prezes UTK nie może odmówić udzielenia licencji, z zastrzeżeniem art. 51, jeżeli przedsiębiorca ubiegający się o przyznanie licencji spełnia wymagania dotyczące:

- 1) dobrej reputacji;
- 2) wiarygodności finansowej;
- 3) kompetencji zawodowych;
- 4) dysponowania taborem kolejowym;
- 5) odpowiedzialności cywilnej.

Art. 47

1. Przedsiębiorca ubiegający się o przyznanie licencji powinien przedstawić Prezesowi UTK dokumenty potwierdzające spełnienie wymagań określonych w ustawie.

2. Wymagania dotyczące dobrej reputacji uznaje się za spełnione, jeżeli członkowie organu zarządzającego osoby prawnej, osoby prowadzące sprawy spółki w spółce jawnej, komandytowej lub komandytowo-akcyjnej, a w przypadku innego przedsiębiorcy - osoby prowadzące działalność gospodarczą nie zostały skazane prawomocnym wyrokiem sądu za przestępstwa umyślne: przeciwko bezpieczeństwu w komunikacji, mieniu, obrotowi gospodarczemu, wiarygodności dokumentów, środowisku lub prawom osób wykonujących pracę zarobkową oraz przestępstwa skarbowe.

3. Wymagania dotyczące wiarygodności finansowej uznaje się za spełnione, gdy przedsiębiorca jest w stanie wykazać, że jest zdolny do wypełnienia rzeczywistych i potencjalnych zobowiązań finansowych przez okres 12 miesięcy od dnia udzielenia licencji. W tym celu ubiegający się o licencję przedsiębiorca winien przedstawić w szczególności:

1) sprawozdanie finansowe za ostatni rok obrotowy, wraz z opinią i raportem biegłego rewidenta z jego badania, oraz aktualną sytuację finansową w przypadku, gdy prowadził działalność gospodarczą w ostatnim roku przed dniem złożenia wniosku o udzielenie licencji;

2) zestawienie przepływów pieniężnych dla roku, w którym ubiega się o licencję i planowane zestawienie przepływów dla roku kolejnego;

3) potwierdzenie stanu rachunku bankowego oraz pozostałe zabezpieczenia majątkowe zobowiązań;

4) dane dotyczące planowanych wydatków związanych z podjęciem licencjonowanej działalności.

4. Prezes UTK może odmówić udzielenia licencji przedsiębiorcy, który doprowadził do znacznych zaległości publicznoprawnych.

5. Wymagania dotyczące kompetencji zawodowych uznaje się za spełnione, gdy przedsiębiorca:

1) posiada lub zobowiąże się, że będzie posiadał organizację zarządzania umożliwiającą sprawowanie właściwego nadzoru nad licencjonowaną działalnością oraz nad przestrzeganiem bezpieczeństwa w transporcie kolejowym;

2) oświadczy, że zatrudni pracowników odpowiadających za bezpieczeństwo ruchu kolejowego posiadających wymagane kwalifikacje.

6. Wymagania dotyczące dysponowania taborem kolejowym uznaje się za spełnione, gdy przedsiębiorca:

1) dysponuje bądź zobowiąże się do dysponowania pojazdami kolejowymi, w tym wagonami i lokomotywami kolejowymi;

2) utworzy lub zobowiąże się do utworzenia z dniem rozpoczęcia działalności systemu utrzymania i obsługi pojazdów kolejowych.

7. Wymagania dotyczące odpowiedzialności cywilnej uznaje się za spełnione, gdy ubiegający się o udzielenie licencji przedsiębiorca posiada zabezpieczenie roszczeń majątkowych związanych z prowadzoną działalnością lub zobowiąże się do dokonania ubezpieczenia działalności objętej licencją.

Art. 48

1. Licencji udziela się na pisemny wniosek przedsiębiorcy.

2. Wniosek o udzielenie licencji powinien zawierać:

1) nazwę przedsiębiorcy, jego siedzibę i adres;

2) ⁽³⁾ numer w rejestrze przedsiębiorców albo ewidencji działalności gospodarczej;

3) imiona i nazwiska osób uprawnionych do występowania w imieniu przedsiębiorcy;

4) określenie przedmiotu i zakresu wykonywania działalności, na którą ma być udzielona licencja.

3. Do wniosku należy dołączyć:

- 1) ⁽⁴⁾odpis z rejestru przedsiębiorców albo zaświadczenie o wpisie do ewidencji działalności gospodarczej;
- 2) kopię zaświadczenia o statystycznym numerze identyfikacyjnym REGON;
- 3) kopię decyzji o nadaniu numeru identyfikacji podatkowej NIP;
- 4) dokumenty potwierdzające posiadanie zabezpieczenia, o którym mowa w art. 47 ust. 7;
- 5) zaświadczenie o niekaralności osób, o których mowa w art. 47 ust. 2;
- 6) informacje o:

a) dotychczasowej działalności przedsiębiorcy,

b) toczących się postępowaniach: upadłościowym, układowym, ugodowym lub likwidacyjnym wobec przedsiębiorcy;

7) szczegółowe dane dotyczące:

a) typów posiadanych pojazdów kolejowych, o których mowa w art. 47 ust. 6 pkt 1,

b) kwalifikacji pracowników odpowiedzialnych za bezpieczeństwo przewozów kolejowych oraz szczegółowe dane dotyczące szkolenia tych pracowników.

4. Przed podjęciem decyzji w sprawie wydania licencji organ ją wydający może wezwać wnioskodawcę do uzupełnienia, w wyznaczonym terminie, brakującej dokumentacji.

5. Minister właściwy do spraw transportu określi, w drodze rozporządzenia, tryb składania i rozpatrywania wniosków o udzielenie licencji, zapewniający sprawność prowadzenia postępowania administracyjnego oraz wzór licencji.

Art. 49

W licencji określa się w szczególności:

- 1) numer ewidencyjny licencji;
- 2) organ, który udzielił licencji;
- 3) datę udzielenia licencji;
- 4) podstawę prawną udzielenia licencji;
- 5) przedsiębiorcę, jego siedzibę i adres;
- 6) rodzaj przewozów.

Art. 50

1. Za udzielenie licencji pobiera się opłatę w wysokości nie wyższej niż równowartość w złotych 2 000 euro ustalona przy zastosowaniu kursu średniego ogłaszanego przez Narodowy Bank Polski obowiązującego w dniu udzielenia licencji.

2. Opłatę uiszcza się jednorazowo lub ratalnie.

3. Opłata jest pobierana przez Prezesa UTK i stanowi dochód budżetu państwa.

4. Do opłaty, o której mowa w ust. 1, stosuje się przepisy o postępowaniu egzekucyjnym w administracji w zakresie egzekucji obowiązków o charakterze pieniężnym.

5. Minister właściwy do spraw transportu, w porozumieniu z ministrem właściwym do spraw finansów publicznych, określi, w drodze rozporządzenia, wysokość i sposób uiszczania opłaty, o której mowa w ust. 1, z uwzględnieniem kosztów nie wyższych niż uzasadnione koszty udzielenia licencji i kontroli jej wykonania.

Art. 51

Prezes UTK odmawia udzielenia licencji, cofa licencję lub zmienia jej zakres ze względu na zagrożenie obronności lub bezpieczeństwo państwa albo inny ważny interes publiczny.

Art. 52

1. Prezes UTK zarządza dokonywanie okresowych kontroli przewoźnika kolejowego posiadającego licencję, w zakresie przestrzegania warunków określonych w licencji.

2. Prezes UTK cofa licencję, jeżeli przedsiębiorca:

1) nie spełnia wymagań określonych w ustawie;

2) wykonujący międzynarodowe przewozy kolejowe nie przestrzega postanowień odpowiednich umów międzynarodowych, których Rzeczpospolita Polska jest stroną;

3) nie podjął działalności objętej licencją mimo wezwania lub zaprzestał wykonywania działalności gospodarczej objętej licencją;

4) został pozbawiony prawa wykonywania działalności gospodarczej objętej licencją na podstawie prawomocnego orzeczenia sądowego;

5) został postawiony w stan upadłości lub likwidacji;

6) nie wywiązywał się z zobowiązań złożonych w oświadczeniach, w określonych w nich terminach.

3. Można cofnąć licencję w przypadku, gdy przedsiębiorca nie prowadził licencjonowanej działalności przez okres 6 miesięcy.

4. Jeżeli przedsiębiorca zamierza zmienić zakres licencjonowanej działalności, składa wniosek o zmianę licencji.

Country profile for:

Portugal

Completed by: Instituto Nacional do Transporte Ferroviário (INTF)
Padre Luis Aparicio 7, 1150-248, Lisboa

Contact person: Pedro Menezes (pmmenezes@intf.pt)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	See comment...
Comments:	<p>The First Railway Package was transposed into the Portuguese legal framework, by Decree-Law nr. 270/2003, October 28th. The licensing regime in force in Portugal, which lays down the basic requirements on insurance, will be further developed in an administrative regulation to be issued by the Government. Public consultation has occurred and the contributions received are now being scrutinized.</p> <p>The legal obligation of insurance, set out in Decree-Law nr. 270/2003, requires RUs to be insured, regarding their liability in the events of:</p> <ul style="list-style-type: none">- Damage or injury suffered by passengers;- Damages brought upon the infrastructure;- Damages brought upon luggage;- Damages brought upon freight/cargo;- Damages brought upon mail;- Damage or injury suffered by third parties.

1.b If yes, please specify if it is a law or regulation?

Answer:	(see previous answer)
Comments:	

2.a What is the name of the law/regulation?

Answer:	(see answer to question 1.a)
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	No.
Comments:	

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Yes Property: Passengers: Yes Luggage: Yes Mail: Yes Freight/Cargo: Yes Infrastructure: Yes Environment:
Comments:	

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	Decree-Law nr. 270/2003 sets a minimum cover of € 10.000.000.
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	There are no differences between railway transport services, as far as requirements of insurance is concerned.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	(see previous answer)
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes. Recognition of licenses from other Member-States is subject to the same procedure as issuing of new licenses in Portugal, as far as insurance coverage is concerned. Therefore, RU are requested to present their insurance policy, or a draft one, so it can be verified if it meets national insurance requirements.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	(see previous answer)
Comments:	

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	It is considered that one of the requirements for recognition of the license is missing. License will not be recognized unless the RU provides further elements in order to its insurance coverage can meet national requirements.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No.
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	There are no state guarantees for transport operators or for infrastructure manager REFER, E.P.
Comments:	

10.a Information on licenses.

Answer:	Total number of licenses: 0 Hereof total number of licenses for: Goods transport: Passenger transport: Encumbant operators: Cross-border operators: International operators: Total number of licenses (revoked): 0
Comments:	No licenses have been issued until the moment, but procedures are under way for issuing of two licences to railway undertakings. One of this procedure is very close to its end. It is also in progress a procedure for recognition of a license belonging to a freight operator.

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	A few insurance companies involved in the railway sector activity can be identified, but it's not clear that it means the existence of a true functioning market. Therefore, mentioning total number of insurance companies or brokers would probably not be accurate information.
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	(see previous answer)
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	Information not available. INTF, as the rail investigation body, only assesses and reports about technical causes of accidents and not about blame and liability. Courts have access to rail investigation reports for judgement purposes.
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	<p>Article 12 of Decree-Law nr. 270/2003 states that:</p> <p style="text-align: center;">Artigo 12.º Seguro de responsabilidade civil</p> <p>1 - Os riscos decorrentes da actividade das empresas de transporte ferroviário e, nomeadamente, os relacionados com acidentes que causem danos aos passageiros, à infra-estrutura, à bagagem, à carga, ao correio e a terceiros devem estar cobertos por um seguro de responsabilidade civil.</p> <p>2 - O capital seguro do seguro referido no número anterior não pode, em qualquer caso, ser inferior a (euro) 10000000, sendo as demais condições, incluindo as relativas à actualização dos capitais seguros, fixadas por portaria conjunta dos Ministros das Finanças e das Obras Públicas, Transportes e Habitação, a emitir no prazo de 30 dias após a entrada em vigor do presente diploma.</p> <p>3 - Os requerentes devem apresentar uma minuta da apólice a subscrever, de cujo teor resulte ser inequívoco o cumprimento do disposto nos números anteriores, bem como a adequação entre o âmbito geográfico da apólice e aquele em que se desenvolve a actividade.</p> <p>Non-official translation:</p> <p style="text-align: center;">Article 12 Civil liability insurance</p> <p>1 – Risks emerging from the activity of railway undertakings, namely, those related to accidents causing damages to passengers, infrastructure, luggage, cargo, mail and third party, shall be covered by civil liability insurance.</p> <p>2 – The amount of the insurance referred to in the previous number shall not be, in any case, less than € 10.000.000, and additional conditions, including those related to the update of insured amounts, shall be established by regulation issued by the Ministers of Finance and Public Works, no longer than 30 days after the entry into force of this law.</p> <p>3 – Applicants must present the draft of the insurance policy that they intend to contract, which shall demonstrate the fulfilment of the requirements set out in the previous numbers, as well as that the geographical area mentioned in the insurance policy is coincident with the area in which the railway</p>
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	undertaking will develop its activity.
Comments:	

Country profile for:

Slovak Republic

Completed by: Railway Regulatory Authority
Meleticova 19, 820 05, Bratislava

Contact person: Miroslava Janusicova (janusicova@urzd.sk)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Law
Comments:	

2.a What is the name of the law/regulation?

Answer:	Act No. 164/1996 Coll. of the National Council of the Slovak Republic on railroads and on amendment of the Act No 455/1991 Coll. on Small Trade Business (the Trade License Act) as last amended by regulations (so called Act on the Railroads)
Comments:	According to the Act, the transporter/carrier is obliged to conclude a contract on transport operation liability insurance on the day of commencement of the transport operation on the railroad and to be insured for the whole time of transport operation on the railroad. The range of the cas fortuits is determined by the Civil Code.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	The Act does not determine terms for being self-insured.
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Comments:	
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4.a What liabilities should be insured according to national law/regulation?

Answer:	Third parties: Property: Passengers: Y Luggage: Y Mail: Freight/Cargo: Y Infrastructure: Environment:
Comments:	

(Please answer "Yes" or "No")

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	No.
Comments:	

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	Insurance coverage is not determined by the Act. Insurance coverage is set on a case-by-case basis based on the risk assessment of the insurance companies.
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	Special insurance requirements depending on the type of the railway operation is not determined by the Act.
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	/
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Comments:	/
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7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	The railway undertaking is obliged to conclude an agreement with the infrastructure manager and provide information showing that on the day of commencement of the transport operation, the contract on transport operation liability insurance has been signed.
Comments:	

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	No special insurance conditions are determined by the Act. The carrier is obliged, upon the request of the URZD, to provide information to verify duration of the liabilities insurance.
Comments:	

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	If the railway undertaking does not hold concluded agreement on liability insurance, the infrastructure manager does not make agreement on railroad transport operation.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	State is the 100% owner of the infrastructure manager and essential railway undertakings providing the passenger and freight transport.
Comments:	

10.a Information on licenses.

Answer:	<p>Total number of licenses: 34</p> <p>Hereof total number of licenses for:</p> <p>Goods transport: 33</p> <p>Passenger transport: 1</p> <p>Encumbant operators: 2</p> <p>Cross-border operators:</p> <p>International operators:</p> <p>Total number of licenses (revoked): 0</p>
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	Insurance market monitoring is not included in the competence of the Railway Regulatory Authority (URZD).
Comments:	

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	The same as the previous question.
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	This data is not available in the Railway Regulatory Authority (as it is not required by the law to gather such information). The information may be found in The Railways of the Slovak Republic (ZSR) www.zsr.sk (infrastructure manager), or Slovak Rail www.slovakrail.sk (railway undertaking).
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Comments:	
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13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	<p>Act on the Railroads, Article 27, section 2) The carrier operating transport on the nationwide railroad or on the regional railroad shall be further obliged to:</p> <ul style="list-style-type: none">e) conclude a contract on transport operation liability insurance on the day of commencement of the transport operation on the railroad and to be insured for the whole time of transport operation on the railroad,f) submit information necessary for the verification of the continuity of his transport operation liability insurance on request of the competent Railroad Administration Authority. <p>ZÁKON 164/1996, NÁRODNEJ RADY SLOVENSKEJ REPUBLIKY, zo 17. mája 1996 o dráhach a o zmene zákona č. 455/1991 Zb. o živnostenskom podnikaní (živnostenský zákon) v znení neskorších predpisov (Provisional English translation).</p>
Comments:	

Country profile for:

Slovenia

Completed by: Railway Transport Agency
Kopitarjeva ul 5, SI-2000, Maribor

Contact person: Benjamin Steinbacher Pušnjak (Benjamin.Steinbacher-Pusnjak@azp.si)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	

1.b If yes, please specify if it is a law or regulation?

Answer:	Laws and Regulations
Comments:	

2.a What is the name of the law/regulation?

Answer:	<ul style="list-style-type: none">• Transport Act (ZzeIP-UPB 3),• Regulation on procedures for checking compliance of the terms for issuing the licence for executing railway operations v Rail Transport, revoking, or prolongation and procedures for informing other licensing bodies,• Act on the compulsory motor third-party liability act (ZOZP-B)• Transport of Dangerous Substances Act• Public Finance Act
Comments:	

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	yes
Comments:	Only to cover liability the damage caused on the Railway infrastructure. The statement from the railway operator that they will be able to cover the damage on the railway infrastructure is sufficient for issuing the licence.

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: yes Property: Yes Passengers: Yes Luggage: Yes Mail: Yes Freight/Cargo: Yes Infrastructure: Yes Environment: No
Comments:	Operators must according to the Railway Transport Act prove compliance concerning the proper insurance covers.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	No
Comments:	In the Republic of Slovenia, there is no fixed minimum amount, but only an obligation to be insured.

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	No
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No
Comments:	

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	No
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes.
Comments:	Operators must also submit the Insurance policy for Motor Vehicle Liability (Carriers liability) to Infrastructure Manager (Public Agency for Rail Transport of Republic Slovenia) and other insurance policy in compliance checking with national insurance requirements. Everthing mentioned above is checked in the process of obtaining te Safety Certificate

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	No
Comments:	The in application for path allocation operator must enclosed a copy of the licence and in checking relevant documents related to insurance

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	If an operator fails to fulfill those requirements, the safety certificate can not be issued.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No.
Comments:	

10.a Information on licenses.

Answer:	<p>Total number of licenses: 1</p> <p>Hereof total number of licenses for:</p> <p>Goods transport:</p> <p>Passenger transport:</p> <p>Encumbant operators: 1</p> <p>Cross-border operators:</p> <p>International operators:</p> <p>Total number of licenses (revoked): 0</p>
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	In the area of Slovenia is 15 insurance companies
Comments:	Every insurance is chosen on the market by Public Procurement. According to Public Procurement Act the insurance companies delivers the offers, and the chosen insurance company is chosen by equal selection criteria.

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	In the area of Slovenia is 15 insurance companies
Comments:	Every insurance is chosen on the market by Public Procurement. According to Public Procurement Act the insurance companies delivers the offers, and the chosen insurance company is chosen by equal selection criteria..

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	29
Comments:	Data are covered period from 2003 to 2005. There is not attached definition so differences about total number of accidents is possible.

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	Railway Transport Act (ZzeIP-UPB 3)
Comments:	<p style="text-align: center;">Article 16</p> <p style="text-align: center;">(conditions for obtaining a licence)</p> <p>(1) Any carrier that is registered in the Republic of Slovenia for the performance of railway transport services and that fulfils the following conditions may apply for a licence:</p> <ul style="list-style-type: none"> - it is not undergoing bankruptcy proceedings; - none of the members of its management staff have been sentenced to imprisonment for one year or more for committing a criminal offence against the economy or the criminal offence of endangering special types of public transport; - that it fulfils requirements regarding its financial capacity and professional qualifications; - that it is capable of covering any damages ensuing from liability for damages that might have occurred while it was performing its activities. <p>(2) The requirements regarding financial capacity shall be fulfilled when the carrier proves that it is capable of fulfilling its obligations ensuing from the activity for which it wishes to obtain a licence for a period of 12 months.</p> <p>(3) The requirements concerning professional qualifications shall be fulfilled when the carrier proves that:</p> <ul style="list-style-type: none"> - it has or will have organised management with the knowledge and/or experience necessary for safe and reliable supervision of the implementation of the activities pertaining to the licence; - those of its staff responsible for safety, especially the drivers, are fully trained for their area of work; - its staff, rolling stock and organisation are able to ensure a high level of safety for the services it will carry out. <p>(4) The carrier shall prove it is capable of covering liabilities for damages ensuing from damage to passengers, luggage, cargo, mail or a third person that might occur while it is performing its activities by proving that it is adequately insured to cover its liabilities in the event of an accident.</p> <p>(5) The Agency shall issue or extend a licence.</p> <p>(6) A carrier that fulfils the conditions laid down in this Act shall be eligible for a licence for the performance of railway transport services. The carrier must obtain a licence for any transport services it wishes to perform.</p> <p>(7) The licence itself does not give the holder the right to access public railway infrastructure.</p> <p>(8) The government shall, by means of a decree, prescribe the method of establishing whether the conditions from the first paragraph of this article are being fulfilled, the procedure of establishing the conditions for suspension, revocation or extension of a licence, and the procedure of informing foreign licence authorities if, in Slovenia, the holder of their licence violates the conditions and requirements they are obliged to fulfil.</p>

Country profile for:

Sweden

Completed by: Järnvägsstyrelsen - Swedish Rail Agency
P.O Box 14, S-781 21, Borlänge

Contact person: Ulrik Bergman (ulrik.bergman@jvs.se)

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes
Comments:	Also directive 2001/13/EC is implemented

1.b If yes, please specify if it is a law or regulation?

Answer:	Act - Law that has been officially accepted by the Riksdag
Comments:	

2.a What is the name of the law/regulation?

Answer:	Swedish Railway Act "Järnvägslagen" 2004:519.
Comments:	There is also an old Railway traffic Act "Järnvägstrafiklag" 1985:192 identifying the "railways" (today interpreted as infrastructure manager) as responsible and is connected with strict liability. The act is focused on national traffic both concerning passengers and their belongings as well as cargo transportation.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	According to 3 chapter 2 § 4 for license and according to 3 § for safety certificate for RU shall they be insured or possess other equal arrangement that covers the liability claims due to railway operations.
Comments:	

**4.a What liabilities should be insured according to national law/regulation?
(Please answer "Yes" or "No")**

Answer:	Third parties: Yes Property: No Passengers: Yes Luggage: Yes Mail: Yes Freight/Cargo: Yes Infrastructure: Yes Environment: No
Comments:	Different categories in different acts

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes
Comments:	The level is not described, but rests on practice that the previous Railway Inspectorate and the State Infrastructure holder Banverket both have agreed upon as a reasonable level.

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	No specification is given in the Railway Act.
Comments:	

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	No.
Comments:	There are no differences on state owned infrastructure. However, there are lower demands set on sidings and museum railways on separate infrastructure.

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes.
Comments:	Assessed in the Safety Certification process.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes.
Comments:	The agency checks the insurance coverage both concerning amount as well as geographic scope. The demands have to be met in every moment of exercise of traffic and as long the company wants to continue to be licensed.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	An absence of insurance or insufficient protection is spotted the license could be subject of reconsideration if its Swedish otherwise will an applicaton of Safety Certificate be rejected.
Comments:	

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	No
Comments:	

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	No.
Comments:	No general guarantees are given from the state.

10.a Information on licenses.

Answer:	Total number of licenses: 14 Hereof total number of licenses for: Goods transport: 11 Passenger transport: 3 Encumbant operators: Cross-border operators: 3 International operators: 3 Total number of licenses (revoked): 3
Comments:	Cross-border operations is equivalent with international operations.

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	1-2
Comments:	Insurance brokers arrange solutions with both domestic and international insurance companies due to large amount of reinsurance

11.b Total number of insurance brokers dealing with third party liability of railway undertakings.

Answer:	3-4
Comments:	

12.a Total number of railway accidents within the last five years which have resulted in payment of compensation.

Answer:	Impossible question. Depends on deductibles in respective insurance. Please contact Marsh Insurance Brokers with biggest market share in railway insurance or Banverket Försäkring as infrastructure owner.
Comments:	

13.a Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.

Answer:	http://www.jvs.se/filer/jarnvagslagenengfinal.pdf
Comments:	

Country profile for:

United Kingdom

Completed by: Office of Rail Regulation
One Kemble Street, London WC2B 4AN
Contact person: Agnes Bonnet (Agnes.Bonnet@orr.gsi.gov.uk)

Response to Insurance Survey

1. Thank you for your letter dated 7 April 2006, which we received on 18 April 2006 and for your subsequent emails. Please find enclosed our responses to the questionnaires. Our responses are designed to assist but you should note that we are not purchasers of insurance and have not looked at this area in any great detail. Therefore, the more comprehensive responses at this stage are likely to come from the industry. We anticipate that you have not approached passenger service providers in GB because you are initially focused on the freight industry which, in some other Member States, is more open to competition. However, you could consider requesting views from the passenger sector and the Association of Train Operating Companies as they may also have useful views to contribute.
2. To set our responses in context, I would like to explain that ORR inherited responsibility for this area from the Strategic Rail Authority (SRA) on 24 July 2005. We have carried forward the SRA's policies and procedures for the short term. However, we are currently undertaking a fundamental review of the policy and requirements set out in our Guidance on Insurance Against Third Party Liabilities which was published in August 2005 as well as our supporting procedures. The review was prompted by a wish to test the regime after a decade in use, and by responses to our recent general review of the licensing regime.
3. As part of this review and in recognition of our responsibilities as a regulatory body and as a national competition authority to keep rail markets under review, ORR may consider the wider rail insurance market in Great Britain. Until this review is complete, ORR cannot therefore comment on the competitiveness or otherwise of the GB rail insurance market beyond setting out our initial empirical observations.

4. Please get in touch with me if you have any questions on the attached, or on the GB Licensing regime in general. Please note that 'GB' is quoted throughout rather than 'UK' because ORR does not have jurisdiction over Northern Ireland, whose railway is separately regulated.

Yours sincerely

Agnès Bonnet

1.a Has article 9 of directive 95/18/EC been transposed into law?

Answer:	Yes.
Comments:	<p>The GB licensing regime was established by the Railways Act 1993 (RA 93). Under RA 93 operators of railway assets must either be licensed or exempted from that requirement. Railway assets are defined as any train being used on the network, whether for the purpose of carrying passengers or goods by railway or for any other purpose, any network, any station and any light maintenance depot),. There are 5 different types of licence (Passenger, Non-Passenger (covering freight and maintenance contractors), Network, Station and Light Maintenance Depot). The Office of Rail Regulation (ORR) is the GB licensing authority.</p> <p>RA93 also made provision for the Secretary of State to determine the conditions that should and should not be included in various Licences under a 'General Authority'. The General Authority currently requires all licences granted by ORR to contain a condition requiring insurance against third party liabilities, on approved terms.</p> <p>More recently, the Railways (Licensing of Railway Undertakings) Regulations 2005 (2005 Regulations) implemented the Directive 1995/18 as amended by Directive 2001/13 EC in GB. These regulations updated the licensing regime and created European licences which includesatisfactory insurance as a criteria for obtaining a licence. The national aspects of the insurance requirements are covered by provisions within Passenger and Freight Statements of National Regulatory Provisions (SNRPs). See www.rail-reg.gov.uk and follow the licensing links.</p>

1.b If yes, please specify if it is a law or regulation?

Answer:	Law (overarching) and Regulation (detailed requirements)
Comments:	<p>RA 93, including the General Authority and the 2005 Licensing Regulations set the framework insurance requirements for operators of railway assets and Railway Undertakings, respectively.</p> <p>ORR sets the the detailed requirements for both as the GB railway regulator. ORR's current policy and requirements are set out in its Guidance on Insurance Against Third Party Liability, August 2005. Available at: http://www.rail-reg.gov.uk/upload/pdf/249.pdf</p>

2.a What is the name of the law/regulation?

Answer:	The Railways Act 1993 (as amended) (RA 93) and the Railways (Licensing of Railway Undertakings) Regulations 2005 (2005 Regulations)
Comments:	Available at: http://www.rail-reg.gov.uk/upload/pdf/ra1993.pdf , and http://www.opsi.gov.uk/si/si2005/20053050.htm , respectively.

3.a According to the law/regulation, can railway undertakings be self-insured?

Answer:	Yes
Comments:	It is up to the operator/undertaking how to fulfil the requirements. Although no undertakings currently self-insure for the full amount, it is common for at least a part of the cover to be provided through self-insurance. The level of self-insurance is determined by the operator/undertaking themselves. Where self-insurance is part of the arrangements, operators and Railway Undertakings provide ORR with evidence to show that they have a reasonable expectation of being able to cover the self insured costs.

4.a What liabilities should be insured according to national law/regulation? (Please answer "Yes" or "No")

Answer:	<p>Third parties: Yes, in respect of any legal liability in respect of the death or bodily injury to any person and loss or damage to property arising from the activities authorised by each licence/licence exemption held.</p> <p>Property: Yes, as above and damage to the property of any railway industry party is required.</p> <p>Passengers: Yes, as stated above.</p> <p>Luggage: Yes - if accompanied personal luggage, otherwise No.</p> <p>Mail: No, this is treated as freight/cargo.</p> <p>Freight/Cargo: No, except as provided for in COTIF or to the extent that this includes accompanied personal luggage.</p> <p>Infrastructure: Yes, to the extent that this is the property of a railway industry party.</p> <p>Environment: Yes, pollution liabilities are required to be covered.</p> <p>Not covered: any liability that is already required to be insured by other national laws e.g. employers liability or motor vehicle insurance. Terrorism cover is not required.</p>
Comments:	ORR's guidance on Insurance against Third Party Liability does not specify any difference between the types of operations, and third party liability cover levels are normally the same across all licences.

5.a Is the insurance cover required for third party liability determined by the law/regulation?

Answer:	Yes
Comments:	The level and terms of cover are set by ORR. The level and terms of cover are the subject of a review being undertaken during 2006/07. The outcome of the review may be changes to the level currently required.

5.b Please specify if the law specifies a fixed amount, a minimum cover/amount, or requires a case by case assessment, e.g. in the form of a risk assessment.

Answer:	ORR policy is that all licence holders are normally required to provide insurance of no less than £155 million (~€223 million). The £155 million aims to provide the licence holder with sufficient cover to meet any third party liabilities arising from death or bodily injury (and loss/damage to property) arising from the licence holder's permitted activities, in respect of the licence holders employees (outside of the course of their normal employment for which other statutory insurance is required) and/or any other affected third party. Operators may choose to hold higher levels of cover as they wish. Operators may seek request ORR approve a lower level of cover which ORR will consider on the basis of an independent risk assessment.
Comments:	ORR's current policy and requirements are set out in its Guidance on Insurance Against Third Party Liability, August 2005. Available at: http://www.rail-reg.gov.uk/upload/pdf/249.pdf .

6.a Do the insurance requirements (cf. Question 5.b) depend on type of railway operation?

Answer:	N.A.
Comments:	<p>The guidance does not specify any difference between the types of operations and third party liability cover levels are the same across all licences. However, licence holders can apply for insurance cover levels to be lower than the specified £155M subject to providing a robust independent risk assessment to support the cover levels being reduced. A number of licence holders have lower third party liability cover levels where the scope of operations is considered to be less of a risk than on the mainline network. Examples include operators of single track lines, with low line speeds and operational separation from the mainline network.</p> <p>It should be noted that some operators voluntarily take out cover levels which are higher than the ORR's minimum requirements based upon their own risk assessments.</p>

6.b If yes, please specify the insurance coverage requirements per type of operation.

Answer:	N.A.
Comments:	

7.a When a railway undertaking that got its license in another member state wishes to use the network in your country, is it checked if it meets national insurance requirements?

Answer:	Yes
Comments:	Railway Undertakings wishing to operate services to or within GB must hold a valid Statement of National Regulatory Provisions (SNRP) in addition to a valid European licence. In order to be issued an SNRP, railway undertakings must (amongst other things) gain ORR's approval of its insurance arrangements.

7.b Are there procedures to check whether holders of licenses awarded in another Member State meet domestic insurance requirements?

Answer:	Yes
Comments:	ORR's Licensing Team, supported by specialist advisers, review relevant insurance documentation as part of applications for SNRPs. The insurance cover must meet ORR's requirements as set out in its guidance.

7.c What are the consequences if it does not meet national insurance requirements?

Answer:	<p>If a railway undertaking applying for an SNRP does not meet GB insurance requirements, it will not be granted an SNRP, and therefore will not be able to begin operating services to, or in GB.</p> <p>If an existing railway undertaking fails to maintain compliance with GB insurance requirements, it is open to ORR to take enforcement action using the powers in RA93 and the 2005 Regulations. Ultimately, the undertaking could have its authorisations revoked and therefore have to cease operations.</p>
Comments:	ORR's Licensing Team has administrative procedures in place to monitor compliance with the GB insurance obligations and sends reminders to those whose arrangements are due for renewal/approval in order to avoid such situations arising.

8.a Has the licensing authority published any guidance on insurance against third party liability?

Answer:	Yes.
Comments:	See above. http://www.rail-reg.gov.uk/upload/pdf/249.pdf .

9.a Are there any state guarantees (with regards to the railway undertaking or the infrastructure manager etc.)? Please specify.

Answer:	None that we are aware of.
Comments:	The Department for Transport (and the Scottish Ministers for Scottish franchised passenger services) do however have duties under RA 93 to act as Operator of Last Resort to maintain passenger services in the event of a franchise agreement being terminated, without a replacement agreement having been entered into. There are also provisions within RA 93 for the Court to provide protection from bankruptcy for certain railway operators.

10.a Information on licences.

Answer:	Please see attached table. Also see: http://europa.eu.int/comm/transport/rail/countries/uk/licence_en.htm and http://www.rail-reg.gov.uk/server/show/nav.275
Comments:	

11.a Total number of insurance companies who provide third party liability insurance for railway undertakings.

Answer:	At least 20
Comments:	Each operating company typically purchases a number of layers of insurance that make up the £155 million, each of which may be underwritten by a different company or consortium.

11.b **Total number of insurance brokers dealing with third party liability of railway undertakings.**

Answer:	At least 16
Comments:	ORR is planning to review GB insurance arrangements.

12.a **Total number of railway accidents within the last five years which have resulted in payment of compensation.**

Answer:	We do not currently have reliable disaggregated data
Comments:	<p>Data on reportable incidents, including accidents, is collected by the HM Railway Inspectorate (HMRI). See http://www.rail-reg.gov.uk/upload/pdf/railsafety0203.pdf and http://www.rail-reg.gov.uk/upload/pdf/rsb0102.pdf.</p> <p>HMRI also collate data on the number of prosecutions under Health & Safety legislation, and fines paid. HSE's annual reports on rail safety contain details and can be downloaded from ORR's website, www.rail-reg.gov.uk</p>

13.a **Please insert/enclose/attach a copy of the law/regulation text transposing Article 9 of Directive 95/18/EC in English if possible.**

Answer:	<p>Paragraph 11 in Schedule 2 of the Railways (Licensing of Railway Undertakings) Regulations 2005 (2005 Regulations)</p> <p>Insurance Cover</p> <p>11. —(1) An applicant for a European licence shall be considered to meet the requirement of insurance cover where, in accordance with the law of the United Kingdom or of any part of the United Kingdom and any relevant international law, the undertaking maintains adequate insurance cover, or has made arrangements having equivalent effect, covering its liabilities in the event of accident to passengers, luggage, freight, mail and third parties.</p> <p>(2) In sub-paragraph (1), "relevant international law" means any provisions contained in any international agreement or arrangement to which the United Kingdom is a party and which have the force of law in the United Kingdom.</p> <p>(3) Insurance cover shall be considered to be "adequate" for the purposes of paragraph (1) if it has been approved by the ORR.</p>
Comments:	