

New Slovenian Public Passenger Transport Regulatory Reform - Towards an Inefficient System

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G3 NATIONAL AND REGIONAL POLICY DEVELOPMENT

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Abstract:

Efficient, innovative, user friendly and environmentally sustainable public passenger transport has recently been the subject of increasing attention and intense scholarly debate. Numerous European common transport policies, legislative efforts and initiatives, strategies and comprehensive transport development strategies reflect the significance of such integrated public transport to national and European welfare. This paper offers a legal and economic evaluation of proposed new Slovenian integrated public passenger transport regulatory reform and a resulting newly integrated system of public transport.

The latest Slovenian regulatory reform has been introduced and inspired by common European transport policy. This set of European rules and objectives serve as the backdrop of the new integrated system of public passenger transport that has been proposed for the first time in Slovenian modern history. The fact that the current Slovenian public transport system is comprehensively and chaotically disintegrated, inefficient and environmentally unsustainable, present timely opportunity for a relevant legal and economic study of the regulatory impacts upon the national economy and its welfare.

As presented, an analysis suggesting the economic, environmental and social benefits of such an integrated system would indeed be immense. Yet, lobbying pressures from different stakeholders and rent seekers have endangered the whole project and undermined the legislative attempt and regulatory reform. This analysis suggests that the lost innovation and economic opportunities, environmental impacts, and an unsustainable, costly and inefficient public passenger transport would seriously impair Slovenian social welfare and have irreversible consequences for the national economy. Moreover, the European target goals from the common transport policy will fail as well, the potential Slovenian infringements of EU competition rules call for the EU Commission and European Court of Justice's interventions and judicial proceedings.

JEL classification: K42.

Keywords: public passenger transport, regulatory reforms, innovation, efficiency, sustainability, environmental protection, competition infringements.

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Abbreviation:

RS	The Republic of Slovenia
EU	European Union
MS	Member State (of EU)
ECJ	European Court of Justice
EPS	Economics public services
MT	Ministry of Transport of the RS
MESP	Ministry of Environment and Spatial Planning
PPT	Public Passenger Transport
FEAD	Financial element of advance debits

1. Introduction

In the preliminary section the author defines the legal characteristic of public passenger transport as a mixed good and its significance to the economy as well as other social objectives. The subsequent part, however, introduces the current legal system regulation of public passenger transport in The Republic of Slovenia (hereinafter the RS); the actual situation regarding the implementation of these services, and by virtue of legal basis and political orientations the necessary systematic rearrangement of public passenger transport in the EU (hereinafter the EU) Member States (hereinafter the MS) - thus exposing the RS tasks in this particular field. In the third section, the author provides arguments about the EU Bodies' competences in managing this field as well as legally-political reasons which have caused the adoption of indispensable measures within the EU to improve the actual situation. In the fourth section, the author has, with reference to the previous and to constitutionally-legal basis (The RS Constitution), defined the national legislator's tasks in the field of managing public passenger transport along with necessity of modifications, which are being dictated - in actual circumstances - by economic, social and ecological reasons. The main objective of systematic modifications in the field of public passenger transport is to eliminate current negative occurrences which should be achieved in every individual MS by regulated competition of these services supply in the market. In the fifth section new systematic regulation is proposed by the author. The necessary time required for the implementation of this enactment and the EU directives into the Slovene legal order has already expired, and the authoritative bodies have still not enabled the presented legal basis to be subjected to public or professional discussion. For this reason, the author draws attention to eventual legal consequences which the EU has a legitimate right to assert against the RS due to non-implementation of EU regulations into the RS's legal order.

2. Legally-theoretical Determination of Public Passenger Transport as an Economic Public Service

2.1. Theoretical Determination of Public Passenger Transport Services

According to their nature public passenger transport services are understood to be mixed goods which are able to be sufficiently and regularly provided under reasonable conditions of free competition on the market. With reference to the macro development

model the adequate supply of these goods is the condition for the growth of the private sector, while the micro model stipulates it as an indirect impact on supply and demand¹, and this is why the social market state is obliged to take an active part in the production of these goods. The intensity of the state's interference into the production of these goods as well as the nature and intensiveness of the public interest in a particular society can be determined by economic theories that are faced with social, demographic, ecological and other sciences, which are reflected in real life as the result of historical processes and political compromises.² The efficiency of the public interest measured by the ratio between costs and benefits, should be estimated based on realistic items, so that the efficiency of intangible benefits is ascertained with the involvement of "cost-benefit analysis".³ The state can persecute numerous externalities through the enforcement of the public interest. Although the supply of these goods enables elimination, this is not actually welcome because the limit expenses of an additional supply of public passenger transport services amount to nil as a rule or may be minimal (i.e., the connection of another carriage with an increased number of passengers).

2.2. Free Market Competition and Public Passenger Transport Services

In the EU the free competition between economic subjects is a generally valued regulation supplemented by a particular sectorial regulation.⁴ *Ratio legis* of particular additional sectorial regulations is in regular, untroubled and a customer attainable supply of the specific (mixed) goods, which would be impossible to reach under the conditions of market competition. Regulated competition is typical for a particular sectorial regulation,⁵ as well as other provisions suitable for reaching expected objectives, i.e. subventions to subjects from an individual sectorial domain, and yet many other incentives. Deviations from free market competition in the field of individual sectors dictate the public interest, which the state may use to provide adequate, frequent and a

¹ Bailey, S. J.(2001), *Public sector economics: Theory, Policy and Practice*, 2nd ed., Palgrave Macmillan, p. 44.

² Bailey, S. J. (2001), *Public sector economics: Theory, Policy and Practice*, 2nd ed., Palgrave Macmillan, p. 10.

³ Musgrave, M. (1989), *Public Finance in Theory and Practice*, 5th edition, McGraw-Hill Publishing Company, Singapore, p. 131.

⁴ See also Weatherill, S. (2007), *Cases & Materials on EU Law*, 8th ed., Oxford University Press.

⁵ Recommended Möschel, R. (2002), *The Relationship between competition authorities and Sector specific regulations, EU Competition law and policy*, Athens, p. 19 et seq.

customer attainable supply of particular goods at reasonable prices. These indirectly encourage both economic and social development as a whole.⁶ The EC Treaty (hereinafter the EC Treaty) and The Contract Establishing the Constitution for Europe respectively classify the sectors of transport as one of sectors of specific sectorial regulation⁷. The EU defines fundamental questions about transport regulation in its primary and secondary regulations, the MS, however, are obliged to regulate - respecting such regulations and policies – eventual deviations from the rules of competition, necessary to reach special tasks defined by the public interest.⁸ A MS or its competent bodies should consider social,⁹ ecological and regional development objectives, when establishing the regulated competition as well as the transparency with providing such services.¹⁰ In this case the MS are obliged to ensure equal conditions to enter the market and equal conditions to any MS supplier to implement these services.¹¹

3. Public Passenger Transport System in the RS

3.1. Current Situation in the Field of Public Passenger Transport in the RS

Due to the geographical position of the RS, transport and public passenger transport as its integral part, are important economic branches with huge impact on economic, social, and total development of the society as a whole.¹²

According to the legal regulation in force, the public passenger transport service in domestic road and railway traffic, Economic Public Services (hereinafter EPS) is an activity which appears in the public interest in an obligatory or in optional form

⁶ Recommended Hrovatin, N. (2000), Regulation of Markets after Slovenia Entering the EU (sectorial regulation), teaching literature; Faculty of Economics, Ljubljana, p.7 plus headlines.

⁷ Treaty Establishing a Constitution for Europe (2004) OJ C316/1.

⁸ ECJ in its opinion 1/94 (WTO Agreement: GATS and TRIPS), 1994 ECR I-5267: “that transport services were to be regarded as not falling into the Common Commercial Policy and that they remained implied powers under the EC chapter on transport, and are thus shared between the EC and its MS;” look Craig, P., De Burca, G. (2008), *EU Law: Text, Cases, and Materials*, 4th ed., Oxford University Press, p. 185 et seq.

⁹ Do you offer to particular groups of passengers (e.g. retired people) special price conditions?

¹⁰ For example: White paper –European Transport Policy for 2010 – time to decide, COM (2001) 370, September 12 2001.

¹¹ Bailey, M. (2002), *Market Testing and Contracting Out*, CH 15, 2002, p. 24.

¹² Majcen, B. (2000), et al., Setting Expert Basis for the Strategy of Regional Development of Slovenia, Institute for Economic Research, Ljubljana.

respectively, as provided by state or local communities.¹³ Any other passenger transport services in the RS have been implemented as economic activities under the conditions of free market competition. The major part of public passenger transports falls within the competence of the state, while local communities are competent for autonomous regulations of the municipal line road-traffic, inland water-transport and car-taxi conveyance.¹⁴ Furthermore, in the range of planning, local communities, along with the assurance of co-financing in inland road and railway public passenger transport, and for their inhabitants' purpose, are competent to suggest new additional intercity lines. The competence for providing public services at the state level has been transferred from the RS to the Slovenian Road Agency (hereinafter the Agency),¹⁵ which discharges economic public service tasks in inland intercity line road public passenger transport,¹⁶ and also to Slovenske Železnice d.o.o. (hereinafter the SŽ), which implements the obligatory economic public service of transporting passengers on inland regional railway transport and abroad.¹⁷ At the level of municipal administration service, they assure the implementation of obligatory or optional economic public services from the field of urban line public passenger transport.

The current system regulation of public passenger transport in the RS enables it to be realised under specific conditions,¹⁸ and the conditions of users' access to such services not to be equal (privileged or discriminatory, respectively). The non-uniformed way, the managerial and financial conditions, as well as a weak mutual connection between individual kinds of public passenger transport are the reasons for both inequality of customer access to these services, but also for its inadequate efficiency, which has been clearly noticeable especially in the constant decrease of passenger demands for public transport and the increase of commuting in personal vehicles. A recent study¹⁹ has shown that the reduced demand of public passenger transport services in suburban and

¹³ Law of Road Transport (Official Gazette of the RS, no. 123/2008) and Law of Railway Transport (Official Gazette of the RS, no. 44/2007).

¹⁴ Id.

¹⁵ Law of Public Roads (Official Gazette of the RS, no. 29/97).

¹⁶ Public passengers line transport has been implemented in the RS since 2004 as an economic public service (hereinafter GJS). The Slovenian Roads Agency (hereinafter the DRSC) has 47 contracts awarded with concessionaires. The concession contracts were awarded in September 2004, actually they were directly allocated to existing transport organisers, who were implementing public line transports in the years 2003/2004. See also: Hočevar, 2007.

¹⁷ Law of Railway Transport, Official Gazette of the RS, no. 44/2007.

¹⁸ Bensa, B., *Expert Basis of Regional Public Transport Regulations*, Omega Consult, 2009.

¹⁹ Predovnik, T., Hočevar, M. et al. (2008), *Cost Analysis and Benefits of the Introduction of Standardised Ticket – Integrated Public Passengers Transport*, Agency of the Republic of Slovenia for Transport.

intercity transport, which was 51.5 million of kilometres covered in 2004, caused a severe decrease to 49.5 million in 2005, and to 48.3 million in 2006.²⁰ The number of passengers amounted more than 300 million in 1985 for the sector of intercity public passenger transport, about 120 million in 1995, 74 million in 2000, and only 40 million in 2005.²¹

The consequences of this situation may well be evident in the economic inefficiency of public passenger transport organisers, high non-transparent subsidies from public resources, along with the parallel steady increase of burdening the environment with exhaust waste gases, traffic jams, and an increasingly diminishing quality of life for the population. The system of subsidies from public resources to the suppliers of public passenger transport has been divided between various holders at the state level, and between local communities. This exercises additional negative impacts on the economic use of public resources, along with non-competition of price of public transport organisers.²² As a result of forementioned facts, many bus services have already been eliminated, the number of employees working for transport agencies has also been in constant decrease. Unsuitable system regulation may also be the reason for the huge differences between public passenger transport organisers' activities. However, we may generally estimate their inventiveness to be lacking and their supply not to be complex, which may also refer to the quality of their services.²³ Indeed, individual organisers might have low costs according to kilometres covered, but their turnover is also extraordinary low (for instance, the price of 1.07 €/km and the income of 0.75 €/km as being the case with a particular service organiser).²⁴ On the other hand, some organisers may gain higher turnover and also suffer extraordinarily high costs (for instance, 1.58 €/km turnover and costs of 1.92 €/km).²⁵ Otherwise, the actual system of public passenger

²⁰ Id.

²¹ Predovnik, T., Hočevar, M. et al. (2008), *Cost Analysis and Benefits of the Introduction of Standardised Ticket – Integrated Public Passengers Transport, DRSC*.

²² See also: Slovenian Statistic Office, 2007.

²³ See also: Kranjc, R. (2009), *The Quality of Public Passenger Transport – Technical and Technological Aspect*, University of Maribor.; Gulič, A., Plevnik, A. (2000), *Traffic Infrastructure in Urban Development of Slovenia – New Analytic Recognitions*, IB Journal Revija, Institute of Macroeconomic Analyses and Development, Ljubljana.

²⁴ Id.

²⁵ Due to a constant decrease of passengers, the JPP system is increasing its prices drastically, which will probably result in loss of turnover and the need for larger subsidies. See also Hočevar, 2007, p. 23 – 37; Hočevar, 2006, p. 89 - 103.

transport (JPP) is based on the “gross” model, which includes the elements of the “net” model – the maximization of compensations.²⁶

Concessionaires gain compensation from public resources to cover the difference between normalized expenses and realized incomes. Since the highest possible compensation paid according to a kilometre covered is limited, transport organisers should bear the major part of their income risks by themselves.²⁷ Maximal compensation has been calculated based on the provided budgetary resources and on the expected range of the JPP implementation denominated in kilometres. Other characteristics of the existing system are also the following ones: a) the State does not fully cover the difference between the recognized costs and realized income, and it is not able to “order” additional lines as the result; b) all concessionaires must have the same recognized costs a kilometre covered (no matter the mean of transport); c) there have been huge differences known to exist between transport organisers (i.e., concessionaires) referring to “economically justified” and those “non-justified” transport lines.²⁸ The system of financial contribution for the EPS activity is quite likely to be found extremely non-flexible. Due to budget financing (the budget of the RS), the monthly assessment as well as the transfer of funds according to recognized costs and income are not able to be effected, as each holder of an activity awards their own concession contract, and their own FEAD (financial element of advance debits), which shall be assessed when concluding the “financial annex”. Actual liquidations are calculated according to the height (possibility) of budget revenue.²⁹

Railway passenger transport is extremely poorly connected with subsystems of public passenger transport.³⁰ Sea public passenger transport has been completely ignored,

²⁶ Gabrovec., Lep., Kotar, 2003, p. 78 - 83.

²⁷ Id.

²⁸ Some transport organisers (central – northern part of Slovenia) note commensurate high turnovers almost reaching the recognised costs, while the others (east part of Slovenia) operate on relatively weak transport lines. For the reason of limited payment of compensations the transport organisers (concessionaires) do not enjoy equal rights; Blaž, Janez, Hočevar, Andrej, *Changing Administration of Public Passenger Transport in Slovenia based on Austria Experiences*, 2 Administration VI, 2008.

²⁹ Blaž, Hočevar, 2008.

³⁰ Slovenske Železnice regularly incur losses in passenger transport, which is, however being covered by the government. In 2008 railway passenger transport received 42,3 million EUR of budget resources to subsidize tickets and yet additional 130 million EUR as the reimbursement for the implementation of

despite the existing feasibilities and numerous economic, environmental, social, and broader social and touristic advantages.³¹ The unbalanced placing of public transport services is the consequence of the Slovenian transport political priority direction towards the modernisation of the road network. In doing so, however, the RS has not considered the needs of the balanced development of the transport system as a whole.³²

The Eurostat findings for the year 2006³³ do confirm that in the RS of all affected transports in the JJP (kilometres covered) 3.2% were by trains, 3.6% by coaches, and as many as 91.3% by personal vehicles. This makes the RS take the last position among the MS in the field of using public passenger transport.³⁴ Such a situation is obviously the result of the transport policy, giving favour to investments into the infrastructure rather than into public passenger transport. .³⁵ Side effects may also be evident in the pollution of the environment and climate modifications,³⁶ and also in traffic jams, noise, and traffic accidents.³⁷

With reference to the research of external costs, which was carried out in 2004,³⁸ and which has been caused in the RS by transport, a passenger who gives up using public coach transport to start travelling by his own car, is considered to inflict the following external costs: a 1,000 passengers/km (in EUR considering 2004 prices):

passengers transport service, although the railway ticket was for 64% of a lower price than the coach/bus ticket; Finance 25 April 2008.

³¹ Id.

³² Policy of investing in transport infrastructure has been also in other EU MS traditionally oriented towards the extension of the existing road infrastructure as a reply to raised demand of traffic services, however this do not solve problems in the long term. Actually, new traffic infrastructure is creating new inquiry; for this reason many EU advanced countries have rapidly started investing into railway infrastructure; See Slovene Ministry of Environment and Spatial Planning 2008.

³³ EUROSTAT, *Transport and Energy in Figures*, 2006.

³⁴ EUROSTAT, *Transport and Energy in Figures*, 2006.

³⁵ Kranjc, R. (2009), *Quality of Public Passenger Transport from Technologically – Technical Point of View*, *University of Maribor*.

³⁶ Predovnik, T., Hočevar, M. et al. (2008), *Cost Analysis and Benefits of the Introduction of Standardised Ticket – Integrated Public Passengers Transport*, Agencija za Promet.

³⁷ Despite constantly decreasing number of victims, the number of traffic accidents and people injured in them is a fast growing one, so that it has almost got doubled in recent five years. In Slovenia, however, a reduced number of people who died in road accidents has been identified with the National programme of safety in the road traffic (in 2010 not more than 39, and in 2011 not more than 124 victims of traffic accidents). See also the Ministry of the Environment and Spatial Planning (MESP) , 2008.

³⁸ Analysis of External Transport Costs, requested by MT and MESP

Externality	In personal car	In coach	»Savings«
Noise	4.6	1.2	+ 3.4
Collisions	32.5	1.4	+ 31.1
Emissions	13.8	19.3	- 4.5
Traffic jams	3.5	3.8	- 0.3
Climate changes	18.9	8.7	+10.2
Construction/decomposition costs	7.6	3.5	+ 4.1
Total amount			44.0

- Source: Analysis of external transport costs, Requested by MT and MESP (in 2004)

Referring to these figures, it is possible to find out with arguments that 1,000 passenger kilometres made by coaches caused (at least) a 44.0 EUR lower external cost in comparison with the same quantity of passenger kilometres covered by personal vehicles. So, a question about the extent of monetary benefit of introducing the integrated public passenger transport in Slovenia may be pledged.³⁹ The analysis illustrates possible annual savings in the case of the introduction of the proposed system as follows:

7% of 1,350,000,000 pkm = 94,500,000 pkm, the annual price of the whole benefit would amount 94,500 x 44.0 EUR = 4,158,000 EUR / year.⁴⁰

3. 2. Current Situation of Public Passenger Transport in the EU

In the EU, transport is defined as a basic activity in which competition, and the whole of which economic development, cultural and social progress depend.⁴¹ More than ten

³⁹ See also Zore, S. (2009), *Analysis of Costs on Implementation of Public Coach Line Transport*, University of Ljubljana; Mohring H. (1994), *The Economics of Transport*, Edward Elgar.

⁴⁰ Ministry of Environment and Spacial Planning of the RS, *Analysis of External Transport Costs*, 2004.

⁴¹ Look: Organisation for Economic Co-Operation and Development, *The Future of European Passenger Transport*, OECD 1977.

million employees work in the EU transport sector⁴². The transport branch incurs about 100 billion € turnover, which in the EU represents more than 10% of the gross domestic output (GDP)⁴³. Besides, an economic role, transport has also has an important role in establishing relationships between the citizens of the MS. Consequently, a common transport policy of which the provision of high quality public passenger transport services has also been a part, is undoubtedly one of foundation of modern Europe. Numerous warning signs like traffic jams and the resulting overpollution of the environment, traffic accidents, and consequential costs, dictate the need of action. According to the EU estimation, the related costs of traffic jams will amount 1% of the EU gross domestic product in the year 2010.⁴⁴ EU actions aim at preventing such trends and establishing a balance between the different ways of transport; increasing the intermodality; decreasing the traffic jams: ensuring safer services and public transport services of higher quality; enabling mobility; introducing encouragement to involve environmentally friendly means of transport (public transport); to establish necessary conditions for development and the construction of more fluent networks (infrastructure); and to introduce new financial sources needed to reach set goals.⁴⁵

4. The EU Transport Sector Managing Sources of Law

4.1. Primary EU Sources in the field of Transport Regulations

Public passenger transport services are economic public services subjected to the EC Treaty, particularly the 16th provisions, the second paragraph of Article 86, and Article 73. They are the basis of secondary sources and the sources of the EU legal order as *acquis communautaire*. Regarding public enterprises and enterprises being delegated special or exclusive rights, the EC Treaty has been substituted by the Treaty Establishing the Constitution for Europe, which applies in Article III-166 that the MS are not allowed to adopt or sustain in force any measure being in conflict with the Constitution, particularly with the second paragraph of Article I-4, and the provision III-

⁴² EU energy and transport in figures, 2007.

⁴³ EU energy and transport in figures, 2003.

⁴⁴ ⁴⁴ Commission of the European Communities, *Green Paper – Towards a New Culture for Urban Mobility*, COM (2007) 551 final.

⁴⁵ Commission of the European Communities, *Green Paper – Towards a New Culture for Urban Mobility*, COM (2007) 551 final.

161 to III-169 of the Constitution Articles.⁴⁶ Enterprises that are entrusted to carry out services of general economic significance, or enterprises which have the characteristic of a revenue-producing monopoly, should act as determined in the constitutional provisions, especially regarding provisions on competition in case the involvement of such provisions do not legally and generally impede the implementation of their special tasks. The development of trade should not be affected to such an extent that it would conflict with EU interests. The Committee has been empowered to ensure the implementation of this provision, and to adopt or to propose adoption of adequate measures in case of necessity, which would help to realize common transport policy considering transport particularities (after the consultation with the Committee of the Regions and the Economic-Social Committee - from III-236 to III. 247 of the Article).

4.2. The most important secondary EU sources in the field of Transport Regulations

At the end of the '60s EU communities realized the need to influence the situation in the transport sector and in public transport services in the then existing MS, and so they adopted individual secondary acts. The EU involved regulations and directives (i.e., the EEC Directives 1191/69 and EEC 1893/91) to sort out the question about criteria of a subsidy allocation as well as of delimitation of subsidies from prohibited state aid. Technical and economic changes in the EU dictate new changes of transport policies, so that essential transport systems providing mobility and welfare in Europe will become more efficient, and may be achieved by proper, price accessible, high quality, and effective transport systems.⁴⁷ An undisturbed flow of people, goods, and services is not only the necessary pre-condition for a high level of competition, but also for social and economic cohesion, environmental protection, a safe energy supply, increased work standards, passenger and citizen safety in the sense of target acquisitions in the White paper,⁴⁸ which refers to the withdrawal of unbalanced development of a different kind of transport, traffic congestions on roads, in the city and in air traffic, as well as to a reduction of effects on the environment, and the Green Paper, which regulates the new culture of urban mobility.⁴⁹

⁴⁶ Treaty Establishing a Constitution for Europe (2004) OJ C316/1.

⁴⁷ See also Commission of the European Communities, *White Paper – European Transport Policy for 2010: Time to Decide*, European Communities, 2001.

⁴⁸ White paper –European Transport Policy for 2010 – Time to Decide, COM (2001) 370, 12.9.2001.

⁴⁹ Green Paper: Towards a New Culture of Urban Mobility, September 25 2007.

Based on the White Paper, on the provision of the Court of Justice of the European Communities *Altmark*,⁵⁰ and also on legal projects from the field of railway passenger transport, the EU adopted Decree no. 1370/2007/EC (hereinafter the Decree)⁵¹ and Directive no. 2004/17/EC in which the newly determined tasks of the MS in the field of public passenger transport have been included.

Referring to a new legal basis and in accordance with the principles of ease, flexibility, and subsidiarity, the EU member states are obliged to establish an organisational structure, and to provide ways of public passenger transport implementation,⁵² for set aims in this field to be reached by the EU policy.⁵³ The principle of ease demonstrates in the waiver of complicated procedures of awarding contracts in the field of public passenger transport, in making agreements with holders of activity, with the introduction of the procedure of indirect contract awarding.⁵⁴

The annex to Directive 2004/17/EC⁵⁵ regulates the designation of reimbursement in the case of an indirectly concluding contract on the principle of an objective, transparent and realistic method, which should prevent excessive reimbursements or cross-subsidization, segregation of accounts, verification of costs, and encouragement of quality and effectiveness⁵⁶ The principle of flexibility demonstrates itself in the Decree with the introduction of the competence of the person in charge (e.g., a local community) to be allowed to carry out public passenger transport without a public call for launching a bid by the prescribed procedure or via an inner organiser, by which the criteria for defining reimbursements is definitively determined. The principle of subsidiarity demonstrates itself in defining regional and long-distance lines, as well as in defining limits which enable indirectly concluding contracts on the implementation of transport, and in defining the quality of services and their safety. In addition to this, the EU involves the Decree to follow the strengthening principle of justice, transparency and access to

⁵⁰ *Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH*, Judgement of 24.06.2003, primer C-280/00.

⁵¹ Regulation of the European Parliament and of the Council from October 23 2007 concerning public railway and road passenger transport services, which has substituted and invalidates the previous Regulations of the Council no. 1191/69/EEC and 1107/70EEC will come into force in December 3 2009.

⁵² Like concessions, indirect awarding contracts, exclusive rights of implementation, etc.

⁵³ White paper –European Transport Policy for 2010 – time to decide, COM (2001) 370, 12.9.2001.

⁵⁴ Decree št. 1370/2007/EC, Official Journal of the European Union L 315/1.

⁵⁵ Appendix to Directive 2004/17/EC from March 31 2004 on coordinating the procurement procedures of entities operating in the water, energy, transport and postal services.

⁵⁶ *Id.*

information, provision of legal security and the observance of particular characteristics of public transport services. In the spirit of the Decree and Directive, public service in passenger transport is identified⁵⁷ with the universality of a service, constancy, quality, price accessibility, safety, and maintaining the customers' or consumers' protection, respectively. The operation of these services may be organized in various legally organisational ways, public enterprises, in collaboration with the private sector (public-private partnerships) or by the transmission of operation of a service to private sector.⁵⁸ In accordance with stated criteria, the MS are responsible for defining the services of public importance, and to organize the financing and supervision of the implementation of these services.⁵⁹

In accordance with the EU programme the following economic, social and ecological objectives in the field of public passenger transport should already be realized in the current year: a) the revitalisation of railways as well as cargo and passenger transport within individual EU MS and between them (introduction of competition between transport organisers); b) improvement of transport quality in road transport; c) to speed up sea and land-and-water transports; d) establishment of connections, integration between different ways of transport; e) establishment of basing points for calculations for the use of infrastructure – the integration of externalities should encourage the use of environmentally-friendly means of transport; f) to benefit EU citizens their right to transport services of high quality; g) establishment and development of highly quality urban transport services (modernisation and better use of public transport – assurance of sustainable development and reduction of CO2 emissions – Kyoto Agreement); and h) to establish regulated competition in the field of public transport.⁶⁰

The Green Papers defines increasing use of public transport as one of its objectives, its accessibility, high quality, and the involvement of modern technologies for the purpose

⁵⁷ White Paper on services of general interest from May 12 2004, Green Paper –Towards a New Culture of Urban Mobility from September 25 2007.

⁵⁸ White Paper on services of general interest from May 12 2004.

⁵⁹ European Commission, *Assessment of the Contribution of the TEN and other Transport Policy Measures to the Mid-term Implementation of the White Paper on the European Transport Policy for 2010*, Brussels, 2005.

⁶⁰ Look: White Paper on services of general interest from May 12 2004, Green Paper –Towards a New Culture of Urban Mobility from September 25 2007.

of improving the current situation.⁶¹ In doing so, it is grounded in the fact that more than 60% of the EU population live in urban areas, where almost as much as 85% of the EU gross domestic product is incurred.⁶² The expansion of city municipalities causes traffic congestion that has numerous harmful consequences like a polluted environment, the green-house effect, health problems, excessive noise, traffic accidents, time losses, difficulties in logistics, etc. Due to traffic congestion, the EU economy suffers an annual loss of 100 bn EUR or 1 % of the EU GDP.⁶³ Urban road traffic adds 40% of CO2 emissions and 70 % of emissions of other pollutants.⁶⁴ One out of three car accidents resulting in death takes place in urban areas, with pedestrians and cyclists as their main victims. The establishment of suitable mobility is of vital importance for the reduction or prevention of stated occurrences, which can only be achieved with harmonized cooperation between local and regional authorities as well as with national states and the EU as a whole.⁶⁵ The situation presented in the Green Papers requires prompt reaction in the field of public passenger transport.⁶⁶ One of most significant measures is the provision of so called *co-modality*, in accordance with which passengers to a particular destination might enjoy combined use of a standardised ticket in different means of transport (train, tram, underground railway, coach, bus, taxi, etc.). Another important action is also the encouragement of use of various personal means of transport like a motorcycle, cycle and walking.⁶⁷ The improved mobility would definitely result in the reduction of growing negative occurrences, and simultaneously increase the social welfare (also by the harmonisation between passenger and cargo transport.)⁶⁸

5. The RS Jurisdiction in Public Passenger Transport Regulations and its Liabilities to the EU Law Implementation

⁶¹ Commission of the European Communities , *Commission Staff Working Paper – Impact Assessment*, SEC (2007) 635/2, and Green Paper –Towards a New Culture of Urban Mobility from September 25 2007.

⁶² Green Paper –Towards a New Culture of Urban Mobility from September 25 2007, COM (2007) 551.

⁶³ CE Delft, *Handbook on Estimation of External Costs in the Transport Sector – IMPACT Study*, Delft, 2008.

⁶⁴ Id.

⁶⁵ See also Commission EU, *Greening Transport: new Commission package to drive the market towards sustainability*, IP/08/1119.

⁶⁶ Green Paper –Towards a New Culture of Urban Mobility from September 25 2007, COM (2007) 551.

⁶⁷ Id.

⁶⁸ Commission of the European Communities, *Greening Transport – Communication from the Commission to the European Parliament and the Council*, COM (2008) 433 final. See also Commission EU, *Rail noise abatement measures addressing the existing fleet*, COM (2008) 432 final.

5.1. Legislator's Reference Line in Public Passenger Transport Regulation

The regulation of public passenger transport is in the competence of the EU MS, which are further obliged to follow objectives established in this field by the EU for the purpose of the common market operation.⁶⁹ The MS are obliged to involve such solutions to achieve goals, which will create an optimal ratio between the price (costs) for these services and followed aims (benefits). In the sense of theoretical definition from the second chapter of this article, such regulation requires from the state to render assistance with the results obtained by economic and legal science, as well as those of empirical research. Economic theories help with defining the public interest in the field of public passenger transport, which is in its nature rather mixed public-private goods (indirect externalities public goods). The access to these goods does not normally cause difficulties, and their elimination is thus possible (no free-rider problem). Due to their nature under the conditions of free market competition, however, they are not able to be regularly and fluently provided. Therefore, it is also necessary to establish, along with market regularities, a partial regulation of the state or a local community, respectively.

A planned system regulation of public passenger transport in the RS should be based on specific demographic and urbanistic conditions, and on the needs of public transports proceeding from the previous ones, considering economic feasibilities, regionally-developmental, and social needs (protection of individual social groups, e.g. retired people, school children, people with motional disabilities, etc.) and bad ecological situation, however it should simultaneously follow the Constitution of the RS (Official Gazette of the RS, no. 33/91-I, 42/97,66/00, 24/03, 69/04 and 68/06), and with the EU regulations and policies⁷⁰ determined goals. Only these stated reference lines could enable the establishment of conditions for complex technically, functionally, and informationally connected inter-modal, safe, reliable, quality, sustainable, developmentally oriented, non-discriminatory and price effective public passenger transport. From an economic point of view, the public transport offered to customers should be a system based on free market competition. As well, with regulatory measures, the established regulations should assure benefits, named in the public

⁶⁹ Id.

⁷⁰ See Decree No. 1370/2007/EC, Official Journal of the European Union L 315/1; White paper –European Transport Policy for 2010 – Time to Decide, COM (2001) 370, September 12 2001 and Green Paper: Towards a New Culture of Urban Mobility, September 25 2007.

interest.⁷¹ Co-financing of public passenger services by public resources should be limited to public benefit (Parett's principle), as well as with the economic feasibilities of the RS.

5.2. Legislator's Interaction in the Field of Public Passenger Transport with the EU Legal Order

In accordance with Article 5 (paragraph 2, 4, 5, and 6) of EU Regulation 1370/2007, which came into force on 3 December 2009, and should be – in accordance with EC Treaty in the MS - involved indirectly; in case that the national legislation does not prohibit it, it is possible to also grant holders of activities the right to operate public passenger transport without any preliminary call for competition. In the RS such feasibility is enabled also by the Public Procurement Act (Official Gazette of the RS, no. 128/2006) and the Public Procurement Act in the field of waters, energy, transport, and postal services (Official Gazette of the RS, no. 128/2006). Objectives determined by the EU directives shall be ensured by the establishment of adequate national legislation.

6. Basis for the Establishment of Reform in the Field of Public Passenger Transport in the RS

The RS objectives in the field of Public Passenger Transport have been determined in the Resolution on Transport Policy of the Republic of Slovenia,⁷² which redefines them in the sense of regulations and the EU policy as “services of high quality and professionalism, and which provide themselves in the conditions of de-nationalisation, central management or the coordination of all ways of public transport.” In this manner, the enhancement of mobility, safety, extent of public transports of passengers, quality standards should be enabled, as well as the adverse impact on the environment reduced, traffic congestion eliminated, and the established effective public transport should be integrated into the system, which shall enable customers, along with rational use of sources, and under non-discriminatory conditions, access to public transport services to the reduced price possible.⁷³ The improvement of public passenger transport

⁷¹ Bailey, S. J. (2001), *Public sector economics: Theory, Policy and Practice*, 2nd ed., Palgrave Macmillan, p. 101.

⁷² Resolution about transport policy of RS, Official Gazette of the RS, no. 58/2006 from 06.06.2006.

⁷³ Id.

services should encourage a larger demand for such services, and consequently reduce the involvement of personal vehicles, traffic jams, consumption of fuel, and the emission of waste gases. Citizens and inhabitants of the RS should be thus provided better life conditions.⁷⁴

The study of integrated public passenger transport in the RS was created on the introduced basis and need to eliminate the stated anomalies in the existing system, as ordered by the Slovene Ministry of Transport and carried out in the previous year.⁷⁵ The study whose author was the author of this article himself includes inland road, railway and water transport at the suburban, urban, regional and inter-regional level, and also railway transport also at the international level. No cable and air transport have been included in the study, while the taxi-transport is classified like the above standard service, which might be introduced on the local community initiative as public passenger transport if they manage to provide necessary additional assets from its own sources.

The study is also based on the Constitution of the Republic of Slovenia, namely: Article 2, which applies the RS to be a social state; Article 14, which provides every subject equal benefit of the law; Article 15, according to which human rights and fundamental freedoms are exercised directly on the basis of the Constitution and which determine conditions to their restriction; Article 32, according to which everyone is given the right of freedom of movement (which does not concern free movement only, but also the freedom of choosing the place of residence); Article 49, which applies the freedom of work and involves free employment too; Article 52 according to which people with restricted abilities of movement should benefit particular protection and work-training, and children with pervasive physical and mental developmental disorders and other severely impaired people should be skilled to live active life in the society; Article 57, which applies freedom to education; Article 71, which imposes on the state the special care for economic, cultural, and social progress in mountain and hilly regions; and Article 72, which provides ever one the right to a healthy living environment.⁷⁶

⁷⁴ Pitamic, F. (2004), Expert Basis of Price Policy of the Republic of Slovenia for Public Passenger Transport; Prometni inštitut Ljubljana. See also Pitamic, F. (2002), Prometni inštitut Ljubljana.

⁷⁵ Korže B., et al. (2009), Elaboration of Legal Basis of Integrated Public Passenger Transport Regulation in the Republic of Slovenia, Transport Agency in Ljubljana (*Izdelava pravnih podlag za ureditev integriranega javnega potniškega prometa v Republiki Sloveniji*, Agencija za promet Ljubljana).

⁷⁶ Constitution of the Republic of Slovenia (Official Gazette of the RS, no. 33/91 and the subsequential).

Referring to the above stated constitutionally-legal basis and regulations as well as EU policies, the new public passenger transport arrangement in the RS is created in the study centralised at the RS level since this is the only way in which public passenger transport services would be provided to all customers in the whole region of the state to standardised norms and under non-discriminatory conditions. Local communities that are an important subject in the procedure of planning the public passenger transport network, shall be enabled to suggest the introduction of the above standard transport services for their own or wider area, with the condition of affirmation of co-financing from their own resources.⁷⁷ The proposed way shall make the introduction of a transparent system possible at minimal costs, so that the users will be provided – at the lowest prices of services possible and the tiniest possible rate of co-financing from the public sources - optimal benefits and the highest possible social welfare being followed by the reform.⁷⁸ Financing or co-financing respectively of such services from public sources, which is divided into various budget items of the RS according to claimants (partially also transmitted to local communities) in the existing system, is according to the study centralised to one budget item only. The Slovene Ministry of Transport as a sectoral authority has been redefined by the new concept as the central body of the executive branch of power, competent for the implementation of system legal solutions with organising, establishment of action, arranging the co-financing, providing protection, and other ways of supervision over public passenger transport services. In order that the organisation of integrated public passenger transport would run as effectively and at the lowest cost as possible, the study provides competences in the field of operational activities to a particular central institution for the whole area of the state, which may organise itself as the body of public or private law.⁷⁹ With reference to the size of the RS territory (20,257 km²) and the state of complete disintegration of JPP (segregated in interests),⁸⁰ and also based on the previous researched figures,⁸¹ which consider also

⁷⁷ Korže et al., 2009.

⁷⁸ Id.

⁷⁹ Korže et al, 2009. For similar solution see also: Buliček, J. (2008), *Integration of the Public Passenger Transport in the Czech Republic*, 3 Mechanics Transport Communications 0232.

⁸⁰ Šašek Divjak, M. (2005), *Permanent Mobility – Colonisation and Public Passenger Transport*, Urban Planning Institute of the Republic of Slovenia (*Trajnostna mobilnost – poselitev in javni potniški promet*, Urbanistični inštitut RS).

⁸¹ See also. Pitamic, F. (2004), *Guidelines of Public Passenger Transport Strategy in the Republic of Slovenia*, Transport Institute in Ljubljana (*Smernice za strategijo javnega potniškega prometa Republike Slovenije*, Prometni inštitut Ljubljana); Bensa, B. (2009), *Expert Basis for Regional Public Passenger*

specific urbanistic circumstances (a small number of city centres with relatively strong populated surroundings and daily commuting of these inhabitants into the city), the study concludes that optimal results in the field of public passenger transport, particularly accessibility to users under equal or non-discriminatory conditions, as well as with optimal economy and rentability, shall be achieved only by central planning, integration, inter-modality, and a highly professional central coordination of operations (planned centralised system is inevitable, however, after the implementation of the reform, it may be decentralised if so dictated by needs).⁸² The organiser should be the subject, who would be competent by the law to adopt all necessary operative general legal acts to the establishment of the organisation, as well as to operating and operational supervision over public passenger transport as an economic public service. The organiser should take care for the complex system functioning, establish a standardised information system, and establish a unified timetable and tariff system coordinated between the different means of transport, and confirmed by the appropriate ministry (Ministry of Transport).

According to the regulations of public procurement supplemented with the EU Decree, the proposal anticipates the organiser to be competent to decide upon other holders of individual public passenger services for the territory of the RS.⁸³ Users of public passenger services should take an active part in planning, surveillance and supervision through consumer organisations and local communities.⁸⁴ The organiser should also take care for their cooperation support, who would set-up arbitration as an alternative dispute resolution in accordance with Slovenian Arbitration Act (Official Gazette of the RS, no. 45/08) and Mediation in Civil and Commercial Matters Act (Official Gazette of the RS, no. 56/08). The proposed way would assure a quick and effective conflict solving, which might arise from the relationship between the organiser and other holders of activities related to transport, especially in connection with the organiser's observations about infringement of the contractual obligations and of effective protection

Transport Regulation (*Strokovne podlage urejanja javnega prometa v regiji*), Omega Ljubljana; Kmetič, A. (2008), Comparative Analysis of Public Passenger Transport Implementation (*Primerjalna analiza izvajanja javnega prevoza potnikov*), University of Ljubljani; Kormanyos L. (2007), *Conditions of a quality public railway service in Hungary*, Periodica Politehnica.

⁸² Korže et al., 2009.

⁸³ Public Procurement Act, Official Gazette RS, No. 128/2006 z dne 08.12.2006, and Public – Private Partnership Act, Official Gazette of the RS, no. 127/2006 from 07.12.2006.

⁸⁴ Korže et al., 2009.

of the users as the customers in the sense of the Consumer Protection Act (Official Gazette of the RS, no. 98/04 – official consolidated text).

In order to set unified standards and to ensure non-discrimination to all the users of public passenger transport on the territory of the state and to enable the introduction of a standardised ticket, the study provides integral public financing, namely in the way in which co-financial assets would be provided according to financial capacities of the state and according to quality standards detailed in advance for every single way of transport and all categories of users of public transport services. A centralised approach of financing would abolish present discrimination between holders of activities and users of services, and is the most appropriate or the only way, which will be able to ensure the establishment and effective operating of the system.⁸⁵ Beside numerous immediate effects, the positive financial affects of the introduction of integrated public passenger transport are going to arise in quite a long period of time.⁸⁶

The proposed concept actually foresees collaboration between local communities and the central organiser of the system in planning and surveillance of the implementation of public passenger transport services, although it does not expect any independent competences of local communities at organizing public passenger transport services. Beside their collaboration with an organiser, the local communities should be enabled to give proposal to the organiser to establish additional passenger transport lines in their region, or for lines of common sense for more local communities so that the organiser establishes them in the context of the existing integrated system as the above standard service, which financial assets will have to be provided by the local community or local communities, which are going to propose the introduction of the above standard service.

⁸⁵ In the current system, the financing has been unchecked and sprinkled between the Ministry of Transport, Ministry of Finances, Ministry of Labour and Social Affairs, Ministry of Education and Sport, Ministry of Higher Education, and to local communities. Such a system causes non-transparency of expressing the rights (on various basis – direct exercising of reduced prices of travel tickets, exercising scholarships, etc.) and inequality of citizens or eligibility of the RS residents (the local community which devotes more financial assets to funding public passenger transport at the local level enables its inhabitants services of a higher standard and at lower prices than other local communities).

⁸⁶ For evaluation of positive economic impacts see Hall, C. H., Lundgren, J. and P. Varbrand (2004), *Simulation and Evaluation of Integrated Public Transport*, Advanced OR and AI methods in Transportation, Linkoping Universitat; Zamin, O. Z. (2005), *Integrated Public and Road Transport Network system for Bandung Metropolitan Area*, 5 Proceedings of the Eastern Asia Society for Transportation Studies 1281.

The study provides for distribution of competences at implementing the supervision of safety and safety standards between different public authorities and the organiser. The second would be competent to implement surveillance of holders of activities according to conformity of implementation of matters relating to a contract and in this sense also the current, quality and on-time implementation of public transports. Authority inspection surveillance services should within the meaning of the existing surveillance system implement the surveillance of the fulfilment of technical and staff regulations (safety) and other conditions. In order to effect precise regulation and distribution of competences at implementing the surveillance of security and security standards between different state authorities and the organiser, the study foresees precise regulation with implementing regulations, which are to be applied by executive authorities empowered by the legislator according to system integrated public passenger transport act. However, for the field of operations of the public passenger transport system the central organiser is empowered directly. The later encompasses the operative surveillance of providing and implementing public passenger transport services, providing and implementing the competition in the field of implementing public passenger transport services as well as of providing the public interest in the implementation of public passenger transport as an economic public service. Other surveillance methods which are under the power of decision of according to the applicable regime competent Public Agency for Rail Transport of the Republic of Slovenia,⁸⁷ Slovene Agency for the Management of Public Railway Infrastructure Investment⁸⁸ and the Police,⁸⁹ should be delegated according to the new system regulation to the Transport Inspectorate of the Republic of Slovenia and to the existing or by the system law modified control authorities.⁹⁰

⁸⁷ In accordance with the Railway Transport Act, *Official Gazette of the RS, no. 44/2007*, the Public Agency of Railway Transport grants and withdraws or waive licences on temporary basis and implements surveillances of validity of licences, approved railway tracks, and the fulfilment of related conditions; it acts as a security authority; implements inspectional supervisions and also acts as an investigating authority.

⁸⁸ In accordance with Article 13 of the Act of Public Roads, *Official Gazette of the RS, no. 29/97*, the Slovene Roads Agency also implements expert-technical, developmental, organisational and administrative tasks referring the transport in the cargo and passenger road traffic and carries out the conformity of road vehicles.

⁸⁹ In accordance with the Road Safety Traffic Act, *Official Gazette of the RS, no. 56/2008* and the Act of Police, *Official Gazette of the RS, no. 107/2006*, the police is inter alia competent for the implementation of the surveillance and regulations of public passenger transport on public and uncategorised roads in the public transport.

⁹⁰ Korže et al., 2009.

7. Legal and Other Consequences of Unimplemented or Ill-Timed Implemented Regulations and the EU Policies of the Integrated Public Passenger Transport Regulations in the EU MS

The EU Commission is in accordance with Article 226 EC responsible for ensuring that Community law is correctly applied⁹¹. As the Guardian of the Treaties, the Commission has the option of commencing infringement proceedings under Article 226 EC / Article 141 Euratom whenever it considers that a MS has breached Community law. The purpose of the procedure is to bring the infringement to an end. The infringement procedure starts with a letter of formal notice, by which the Commission allows the MS to present its views regarding the breach observed. If no reply to the letter of formal notice is received, or if the observations presented by the MS in reply to that notice cannot be considered satisfactory, the Commission will move to the next stage of infringement procedure, which is the reasoned opinion; if necessary, the Commission will then refer the case to the Court of Justice.⁹²

On 3 December 2009 the time limit for the RS to start introducing the Decree and implementing its legal order expired. Despite a set study, the competent sectoral authorities of the RS have not started a public debate about the proposed solutions which means a delay of the implementation of the EU regulations and policies into the Slovene legal order. According to identified condition in the field of public passenger transport in the RS in Chapter 3.1, which is within its relative meaning rather more critical than if based on average situation in MS, the EU Committee finds out not considering the EU regulations or the ill-time implementation of the Decree, and a delay at the implementation of the policies of public passenger transport policies in the RS to cause further negative impacts on economic development, uneconomical use of public sources, pollution of environment, global warming, health problems, exceeding noise, traffic accidents, loss of time, logistics as a whole, etc. Reforms within the meaning of proposed solutions would undoubtedly provide immediate effects in various fields, so that the quality of services would arise despite a decrease of the extent of public resources, which are now being used by the government to co-finance directly or through local communities the public passenger transport services. It would also result in

⁹¹ Horspool M. (2000), *European Union*, LawButterworths, p. 101.

⁹² http://ec.europa.eu/transport/infringements/directives/directives_en.htm.

a better access to such services and in the abolishment of discrimination. Therefore, a delay of the RS would mean an additionally undue decline from the set objectives which are being followed by a reform.

Slovene delay with the implementation of EU regulations and policies in the field of public passenger transport into the Slovene legal orders is, in accordance with stated EC provisions (Euratom), would mean the infringement of the EU legal order, which enables the Committee to establish penal sanctions against Slovenia.

8. Conclusion

The worldwide recession has struck a final blow to the Slovene economy in a long-lasting period of weakened economic power. The actual situation is largely the result of inadequate system of privatisation and ownership transformation, as well as of denationalisation of nationalized economic subjects. The way of privatisation and ownership transformation which enabled individual managerial structures the redemption of social property has largely abolished motivational levels for the economic subjects' investing into development, which should be a vital condition for their competition. Conversely, it encouraged the interest of managerial structures in lessening the value entrepreneurial capital in social property, and in redirecting of this exceeding value into private property which made them capable to acquist their underestimated values. This was the way in which economic subject started to lose the battle with the market competition. In the RS, negative processes have yet been facilitated by a lack of objectivity in the securities market, which caused managerial structures within the conditions of ever decaying competition status to not entertain thoughts about development of basic activities and re-oriented them towards the share market "speculative" business affairs. With the failure of the share market, many economic subjects finally lost competitive market struggle. The RS as a market social state did not act as it should have, and did not introduce urgent intervention measures to reduce the described situations. Within the meaning of this it is possible to feel its insufficient response, even in the field of fulfilling its competences for the public passenger transport services. Instead of playing its role to use its authority to establish the necessary legal basis to regulate the system of public passenger transport, it has been avoiding the power of lobby groups of individual holders of activities. Regarding the railway sector

sector, the SŽ are trying their best in the field of railway transport to retain a monopolistic position and to their own beliefs unjustified privileges, while in the field of road traffic a powerful organization which involves coach and bus transport organisers. The SŽ, in capital property of the RS, are facing huge and constant losses, which are covered from public sources by the state being forced to act so. Instead of getting reorganized and ready on further business activities based on new fundamentals, they gained new concession contracts from the Government of the RS, which enabled them another ten-year period of time of implementing the public railway transport services. The organisation of transport organisers in the public road transport stayed on the foundations and managed to gain from the Government the prolongation of the existing system. A new conundrum will definitely be local communities in which completely uncontrolled vendors organize local transport, ignoring the rules of competition,⁹³ limited only by the most important measures, needed to implement the public interest. Measures which the EU Committee might use against the RS and are based on its competences due to unimplementation or delaying with the implementation of the EU regulations and policies, may not only serve as a warning, but will also help the states having jurisdiction at fighting against lobbying and political obstacles, which counter their more active and more decision-making operations of fulfilling their tasks.

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⁹³ Bailey, S. J. (2000), *Public sector economics: Theory, Policy and Practice*, 2nd ed., Palgrave Macmillan p. 424.

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