



Compliance of the traffic organisation at the Riga International Airport with the requirements of laws and regulations

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Dear Reader,

The site of Riga International Airport (hereinafter referred to as the Airport) was built between 1968 and 1974. Over the last 20 years, the number of passengers carried by air has grown rapidly, so developing the Airport's infrastructure was necessary to improve both the safety of air transport and the quality of passenger service. The first serious reconstruction works at the Airport took place in 1994, while the implementation of the project "Infrastructure Development of Riga International Airport" was completed in 2015, for example, renovation and construction of the runway and taxiways, as well as construction of the North Terminal.

Although the Airport is developing faster and faster, the way a passenger gets to or from the Airport has not changed significantly in years.

It is already widely accepted that public transport is preferred at a modern airport. The infrastructure at the Riga International Airport does not encourage the use of public transport to get from the Airport to the city centre. The infrastructure is designed so that the passenger considers using taxi services as a priority, as the public transport stop for picking up passengers is further away significantly, while the taxi line is right next to the arrival terminal. Part of the Airport's passenger flow consists of foreign guests, who find it more convenient given the structure of the Airport's infrastructure and traffic organisation and also easier to get the specific service at the exit from the arrival terminal directly.

The situation could change significantly with the construction of the public part of the new passenger terminal and the related infrastructure and connection to the Rail Baltica railway line. However, the Airport's development plans are uncertain due to the COVID-19 global pandemic.

Given that one does not know when the Airport Terminal Development Project will be

completed, the Airport will have to ensure the organisation of passenger transport and traffic, including taxi services, within the existing infrastructure. Therefore, taxi services will continue to play an important role in the Airport area in the coming years.

We thank our key audited entity, state-owned JSC "Riga International Airport" for cooperation, and the Ministry of Transport responsible for the passenger transportation industry.

The State Audit Office also expresses its gratitude to the Ministry of Finance, the Procurement Monitoring Bureau, the Competition Council, the Consumer Rights Protection Centre, the State Police, and the State Revenue Service, which provided opinions to the auditors during the audit.

Respectfully yours
Ms Inga Vārava
Department Director



Summary

Taxi services are irreplaceable in most cases from the consumer's point of view, as their specificity involves transporting a passenger from one specific place to another specific place on the route and time required for a particular passengerⁱ.

For taxi service providers, servicing the Airport's passengers is also an important source of income. Taxi ranks located at sites with a constant flow of passengers are crucial in the overall market for taxi services. There is competition in the market of providing taxi services in Riga, hence many carriers are interested in the right to pick up passengers at such facilities.

Taxi service related problematic issues at the Airport last for more than a decade. Within the framework of the legal proceedings, there was an assessment of the Airport's actions when selecting a taxi service provider and of the requirements set by the Airport for the provision of taxi services in the Airport territory.

The Airport's practice to determine the procedure and requirements for the providers of taxi services on the taxi route of the Airport for many years was terminated by a court decision of 23 March 2017.

The court concludedⁱⁱ that the procedure established by the Airport precluded the possibility for all taxi service providers to claim equal access in the use of a public object. Therefore, the court obliged the Airport to make the necessary changes in the established procedure and the traffic organization in the territory of the Airport. When the court judgment took effect, the Airport had to ensure its immediate and proper execution, that is, they had to remove the barrier restricting access to the already built infrastructure with a certain traffic organisation.

Although both the Airport and the Ministry of Transport, the holder of its shares, participated in the proceedingsⁱⁱⁱ as defendants, their reaction to the court decisions was delayed. The delayed action both resulted in a court decision on the imposition of a coercive fine on the Members of the Board of the Airport and the State Secretary of the Ministry of Transport, and created conditions for the provision of taxi services to become uncontrolled in the Airport in 2017, namely:

- ❖ The court judgment of 23 March 2017 taking effect^{iv} increased the number of taxi service providers, who violated traffic rules in order to gain an advantage and be able to pick up passengers faster and caused conflicts with other service providers;
- ❖ Passenger dissatisfaction and complaints increased in number about the quality of taxi services and the imposition of disproportionate charges.

Resolving the situation with the provision of taxi services in the territory of the Airport intended for the public purposes, the Airport chose to announce an open tender for the right to develop and implement a strategy for passenger transport services and traffic organisation in the territory of the Airport in December 2017. Following a tender, the organization of passenger transport services and traffic was outsourced in mid-2018. The agreement with the external service provider was valid until 30.11.2019.

Considering that the Airport was not competent to eliminate the problems related to the provision of taxi services in the territory of the Airport in full, it was necessary to make amendments to the laws and regulations. The situation with the provision of taxi services at the Airport was also the main

factor that led to the amendment of both the Road Transport Law and the Cabinet Regulation issued on its basis^v.

Taking into consideration the long-standing problems and the frequent statutory changes, the State Audit Office has performed an audit to assess:

- ❖ Whether the Airport's actions in organising and outsourcing the organisation of passenger transport services and traffic in the Airport's territory have been lawful, whether the Airport has ensured the control of the execution of the concluded agreement, and whether the Airport has benefited from the transaction, including improved infrastructure;
- ❖ Whether the actions and solutions by the Airport, whose overall strategic goal is to create, maintain, and improve a positive customer experience, and by the Ministry of Transport as its public shareholder and responsible for the passenger transport sector have yielded positive results in respecting passenger rights.

Main conclusions

The Airport may not determine its own procedure for providing taxi services in the Airport territory. It also follows clearly from the court judgment of 23 March 2017^{vi}. The Airport, as an owner of a public object, is entitled to organise traffic in accordance with the statutory requirements.

The auditors draw attention to the fact that after the court judgment took effect the Airport did not have enough legal instruments at its disposal until 15 September 2019 that would allow to eliminate problems in the organisation of the taxi services because the Road Transport Law and the Cabinet Regulation did not set restrictions on access to the Airport's public purpose area, id est, the taxi line at the Airport.

To solve the challenges related to taxi services, the Airport chose to outsource the traffic organization procedures in the Airport area on 4 December 2017. By choosing the developer and implementer of the strategy of passenger transportation services and traffic organisation in the territory of the Airport (hereinafter referred to as the Strategy), the Airport has determined the subject of the procurement incorrectly, thus it has not applied any of the procurement procedures included in the Public Service Providers Procurement Law when selecting tenderers for the service agreement of approximately 1.3 million euros. On the other hand, the Airport's actions in monitoring the implementation of the Strategy may not be recognised as responsible and aimed at improving the quality of services provided and passenger satisfaction.

The Ministry of Transport, as the leading institution in the development of the regulation of the passenger transport sector, hesitated to react in time and appropriately for setting requirements for taxi service providers at the Airport already in 2017. Although the Ministry of Transport has developed and made changes to the regulation of passenger transport on several occasions between 28 September 2017 and 1 September 2019, the audit concludes that the necessary result has not been achieved yet so that passengers could choose a safe, high-quality service that meets their needs at the Airport.

Actions of the Airport in arranging and outsourcing the organisation of passenger transport services and traffic in the Airport's territory

To solve the problems related to the provision of taxi services, the Airport decided to announce an open tender for the right to develop and implement a Strategy for Passenger Transport Services and Traffic Organisation in December 2017. The development and implementation of the strategy

included the taxi line closest to the first floor of the Airport terminal, the carriageway on the second floor for transporting passengers to the entrance of the departure terminal, and the lane between the taxi line and the car park P1 for international and intercity buses.

Based on the information obtained in the audit and the opinion provided by the Procurement Monitoring Bureau, which is responsible for monitoring the compliance of procurement procedures with the law, one has concluded that the Airport considered the agreement be concluded a cooperation agreement when choosing the developer and implementer of the Strategy unreasonably despite the fact that the agreement has been also signed for a service which the Airport required, including to ensure control of security conditions in the front parking lot of the Airport, to draft and implement a unified traffic organisation at the Airport, easy access to public transport, rational layout of sidewalks and carriageways, as few manoeuvres as possible to reach a destination and so on.

The Airport determined the subject of the procurement incorrectly when selecting tenderers for concluding the agreement for the contracted amount of about 1.3 million euros, thus none of the procurement procedures included in the Public Service Providers Procurement Law applied. When organising the procurement, the Airport applied its internal procedure envisaging the publishing information about the tender only in the press and on the Airport's website instead of the regulation of the procurement of public service providers, thus narrowing the circle of tenderers possibly. Market participants/ potential tenderers evaluate participation in procurements based on notices included in the Official Journal of the Procurement Monitoring Bureau and the European Union; therefore they could not find out the actual content of the procurement and submit their tenders accordingly. It is in the public interest to apply a procedure that complies with the principles of public procurement (transparency and equal treatment of all tenderers) also in cases when individuals are granted rights related to the use of a public matter for the performance of their economic activity. By announcing the procurement improperly, the Airport has not respected the transparency of the procurement procedure, free and fair competition among suppliers, thus restricting competition among suppliers offering to provide the relevant services on the market.

The only tenderer won the call for tenders, that is, general partnership "*Lidostas Satiksme*" (Airport Traffic), with which the Airport concluded an agreement for two years on the development and implementation of the passenger transport services and traffic management strategy on 4 June 2018 (hereinafter referred to as the Agreement) with the possibility to extend it until 31 December 2021.

Although the provisions of the Agreement stipulated that the Strategy should be developed within 60 calendar days from the date of the Agreement taking effect and the Strategy should be implemented within 30 days of its development, the Airport accepted that the Strategy was developed in stages instead of a set of all the measures be implemented within 30 days. In fact, the final acceptance certificate of the Strategy was signed only after 132 days, i.e., on 14 November 2018. Moreover, the draft Strategy, on which the parties agreed, signed the acceptance certificate on 30 August 2018, developed, approved, and adopted by the final acceptance certificate on 14 November 2018, was only the first stage of the Strategy, followed by two more separate stages of the Strategy during the term of the Agreement. When approving the proposals of the Strategy stages elaborated by the general partnership, did not agree on all specific works to be performed, measures, deadlines, but only on short-term priority works. Thus, in the opinion of the auditors, the Airport did not obtain a comprehensive picture of the compliance of the general plans of the general partnership with the Terms of Reference of the Airport.

When assessing the process and conditions of concluding and executing the Agreement, the Terms of Reference of the Airport, the technical draft of the Strategy and Strategy stages, the audit concludes

that one can consider road signs that the general partnership installed and transferred to the property of the Airport free of charge on 30 November 2019 when terminating the Agreement as infrastructure improvement of the Airport after the implementation of the Strategy stages. Thus, during the implementation of the Strategy, the general partnership has not performed such activities that the Airport would not have been able to perform itself. It is important to note that no construction work took place during the term of the Agreement other than the installation of road signs, although the tender required the tenderer to have experience in the implementation or supervision of construction projects. The Agreement also contained instructions on the requirements for contractors if construction works would be performed within the framework of the Agreement.

The Terms of Reference of the open call for tenders of the Airport covered a wide range of issues to be addressed. For example, it included the requirement to develop and implement a unified traffic organisation at the Airport, including ensuring the safety of vulnerable road users (including individuals with reduced mobility, perception or health problems) by providing universal design principles. To meet the Terms of Reference of the Airport, the general partnership intended to identify the practice of European and other countries in the analysis and modelling of traffic flow, and the use of information technologies. However, the information obtained during the audit shows that a unified vehicle and pedestrian movement plan has not been developed and implemented nor does it follow from the information provided by the Airport that, when developing the stages of the Strategy, the solutions offered by the general partnership would be based on the experience of other countries.

The auditors consider that by concluding the Agreement with the general partnership, the possibility to gain financial benefit was the main benefit of the Airport from the transaction. The Airport's revenue from the rights transferred to the general partnership to develop and implement the Strategy amounted to 35,000 euros (excluding VAT) per month, which is 14% higher than the Airport's own previous revenue from the service providers of passenger transport in the eight months of 2017. Given that the Airport knew the expected revenue of the general partnership from the implementation of the Strategy, the auditors consider that the Airport had no reason to believe that the general partnership would take actions to improve the Airport's infrastructure, which had to generate revenue from the implementation of the Strategy, to pay the monthly fee to the Airport, and cover the costs related to the implementation of the Strategy and to make profit from the business point of view.

Initially, the Agreement on the right to implement passenger transport services and traffic organisation strategy in the territory of the Airport was concluded for two years with the possibility to extend it until 31 December 2021. The general partnership proposed to terminate it after a year and a half, basing it on the reduction of income after 1 September 2019 after the valid Cabinet Regulation^{vii} was adopted. At the same time, the auditors consider that such a result is also natural because there was a risk even before the conclusion of the Agreement that the task set by the Airport would not be fulfilled.

The interest of the Airport as a state-owned enterprise cannot include only revenue. It must also take care that the infrastructure improvements resulting from the implementation of the agreement increase the quality of the services provided and passenger satisfaction. Consequently, the auditors cannot accept the Airport's conduct as a responsible and mutually beneficial cooperation aimed at improving the quality of services provided and passenger satisfaction. Since December 2019, the Airport has been organising traffic in the restricted access area for public purposes itself. Hence, the Airport must find a solution to include all taxi service providers (including taxi service providers that only use electronic means of electronic communication online on a website or in a mobile app) in the organisation of passenger traffic in the Airport's frontal area, thus providing more choice for

passengers and a level playing field for service providers, while also promoting competition among service providers both in terms of price and quality of service.

Development and implementation of regulation of passenger transportation by taxi

Since 2017, when the provision of taxi services in the Airport became uncontrolled, both the Prime Minister has been involved in solving the problem by instructing the Ministry of Transport to find a solution to the problem, and the Ministry of Transport initiating the amendments to the Road Transport Law and the Cabinet Regulations issued on the basis of the latter^{viii} and the adoption of new Cabinet Regulation^{ix}.

The audit concludes that the problems identified two years ago are still relevant and that passenger (consumer) rights may still be violated (for example, by not providing the information on taxi fares to a passenger (consumer) before the service, etc.).

The Ministry of Transport, which is both the leading institution in the development of the regulation of the passenger transport sector and the holder of the public capital shares of the Airport, could have provided significant support to the Airport. Although the Ministry of Transport had information on problems in the provision of taxi services on the Airport's taxi line, amendments to the Road Transport Law^x made the situation even more problematic at the Airport.

On 1 March 2018, amendments to the Road Transport Law came into force by abolishing fare restrictions (maximum). Although the amendments were made with a view to improving the payment of taxes in the passenger transport sector, they have resulted in an increasing number of violations of Airport passengers' rights by charging passengers disproportionate fares or refusing to carry passengers over relatively short distances.

There was Cabinet Regulation^{xi} amended on 18 December 2018, which specified the procedure for informing the passenger about the tariffs applied by the carrier for a taxi trip, as the problem related to requesting a disproportionate fee was still relevant. These statutory amendments also did not yield results.

In six months, one will initiate and elaborate the next changes in the regulation of passenger transport by taxi. It is important to point out that when developing amendments to the Road Transport Law and new Cabinet Regulation^{xii} taking effect on 1 September 2019, one indicated in the annotations of draft laws and regulations that previous changes^{xiii} made to eliminate the problems caused by the revocation of maximum taxi fares did not meet the set goal and prevented the identified problem.

On 1 September 2019, the special procedure for the organization of taxi services on the Airport taxi line, its control mechanism, requirements for carriers to provide services on the Airport taxi line, as well as the possibility for Airport passengers to pay for taxi services with a prepaid voucher (payment as a fixed price) stipulated in the Road Transport Law and the Cabinet Regulation^{xiv} took effect.

According to the auditors, regulatory changes might facilitate the arrangement of taxi services at the Airport, however, the information obtained during the audit shows that the protection of passenger rights is still not ensured:

- ❖ Although the requirements imposed on carriers and the control mechanism put in place have prevented passengers' complaints about the quality of taxi services, the requirements only apply to carriers operating services on the Airport taxi line. There is still a problem at the Airport with carriers offering taxi services outside the Airport taxi line. Namely, passengers are offered taxi services, the quality and price of which a passenger cannot verify to be able choosing a taxi service provider that suits his or her needs;

- ❖ The introduced possibility for a passenger to pay with a prepaid voucher for a taxi service is welcomed, however, this service is not provided to the Airport's passengers, as no one offers to buy such voucher. The information included in the Airport's website also does not give passengers the opportunity to get acquainted with the procedure for receiving taxi services and possible travel costs, thus the problem identified by the Ministry of Transport is not eliminated, that is, lack of passenger information on taxi service costs that may result in the request for disproportionate payment;
- ❖ During the audit, the Ministry of Transport has indicated that the limited capacity of control institutions creates favourable conditions for non-compliance with the established laws and regulations, as strict and comprehensive regulation will not be effective if its compliance is not ensured. However, when assessing the information obtained during the audit, including the inspections performed by the control authorities, the auditors draw attention to the fact that the main problems identified in the provision of the Airport taxi services are not related to the limited capacity of control services by to the fact that the solutions introduced have not eliminated the problems identified.

The State Audit Office expects that the results of this audit and the findings on the problems that still exist in the provision of taxi services at the Airport will be useful for both the Airport and the Ministry of Transport as a leading body in regulating the passenger transport sector and the public shareholder of the Airport to assess the regulatory deficiencies identified during the audit thus eliminating them and ensuring the right of Airport's passengers to receive sufficient and clear information about taxi services at the Airport to choose an offer that meets their needs;

Major recommendations

Based on the audit findings, the Airport has received two recommendations for improving the passenger transport traffic by taxi in the Airport area:

- ❖ Given the Airport's development plans, the Airport, in cooperation with the Ministry of Transport, as its shareholder and responsible for the sector, to include all taxi service providers (including taxi service providers that use only electronic means of electronic communication online on a website or in a mobile application) in the organization of passenger traffic in the Airport's frontal area, thus providing more choice for passengers and a level playing field for service providers and also promoting competition among service providers both in terms of price and quality of service;
- ❖ Taking into account the good practice of foreign airports, to include detailed information on the carriers entitled to provide services on the Airport taxi line on the website, their applicable fares, as well as the risks that passengers, including foreign guests, might face when choosing a taxi service provider.

To avoid situations when disproportionate fare is requested, the State Audit Office also invites the Ministry of Transport, as the ministry responsible for the passenger transport sector, to assess whether the problems identified during the audit in the implementation of passenger transport regulation could not be eliminated immediately.

References

- ⁱ Final Report Market supervision of the provision of passenger taxi services in Riga” by the Competition Council of 8 January 2016”, https://www.kp.gov.lv/oldfiles/38/citi%2Fdz_gala_taksometru_uzraudziba_08012016_publversija.pdf, viewed on 29 January 2020.
- ⁱⁱ Judgment of the Department of Administrative Cases of the Supreme Court of 23 March 2017 in case No A420499513 SKA-470/2017.
- ⁱⁱⁱ Administrative case No A42536808 SKA-18/2013, A420499513 SKA-470/2017.
- ^{iv} Judgment of the Department of Administrative Cases of the Supreme Court of 23 March 2017 in case No A420499513 SKA-470/2017.
- ^v Cabinet Regulation No 850 “Amendments to Cabinet Regulation No 148 “Requirements for Receiving a Special Permit (License) of a Planning Region and a City of the Republic and Procedures for Carrying Out Commercial Passenger Transport by Taxi” of 6 March 2018” of 18 December 2018, effective until 31 August 2019; Amendments to the Road Transport Law of 13 June 2019, effective from 1 September 2019; Cabinet Regulation No 405 “Regulations on Commercial Passenger Transport by Taxi” of 27 August 2019, effective from 1 September 2019.
- ^{vi} Judgment of the Department of Administrative Cases of the Supreme Court of 23 March 2017 in case No A420499513 SKA-470/2017.
- ^{vii} Cabinet Regulation No 405 “Regulations on Commercial Passenger Transport by Taxi” of 27 August 2019, effective from 1 September 2019.
- ^{viii} Amendments to the Road Transport Law of 28 September 2017, effective from 1 March 2018; Cabinet Regulation No 148 “Requirements for Receiving a Special Permit (License) of a Planning Region and a City of the Republic and Procedures for Carrying Out Commercial Passenger Transport by Taxi” of 6 March 2018, effective until 31 August 2019; Cabinet Regulation No 850 “Amendments to Cabinet Regulation No 148 “Requirements for Receiving a Special Permit (License) of a Planning Region and a City of the Republic and Procedures for Carrying Out Commercial Passenger Transport by Taxi” of 6 March 2018” of 18 December 2018, effective until 31 August 2019; Amendments to the Road Transport Law effective from 1 September 2019.
- ^{ix} Cabinet Regulation No 405 “Regulations on Commercial Passenger Transport by Taxi” of 27 August 2019, effective from 1 September 2019.
- ^x Amendments to the Road Transport Law effective from 1 March 2018.
- ^{xi} Cabinet Regulation No 850 “Amendments to Cabinet Regulation No 148 “Requirements for Receiving a Special Permit (License) of a Planning Region and a City of the Republic and Procedures for Carrying Out Commercial Passenger Transport by Taxi” of 6 March 2018” of 18 December 2018, effective from 28 December 2018 to 31 August 2019.
- ^{xii} Cabinet Regulation No 405 “Regulations on Commercial Passenger Transport by Taxi” of 27 August 2019, effective from 1 September 2019.
- ^{xiii} Cabinet Regulation No 850 “Amendments to Cabinet Regulation No 148 “Requirements for Receiving a Special Permit (License) of a Planning Region and a City of the Republic and Procedures for Carrying Out Commercial Passenger Transport by Taxi” of 6 March 2018” of 18 December 2018, effective from 28 December 2018 to 31 August 2019.
- ^{xiv} Cabinet Regulation No 405 “Regulations on Commercial Passenger Transport by Taxi” of 27 August 2019, effective from 1 September 2019.