

GUIDING PRINCIPLES FOR PERFORMING CONSTRUCTION/REPAIR WORKS BETWEEN TOLL COLLECTION PLAZAS RESULTING IN A FAILURE TO MEET THE MOTORWAY STANDARDS

ASSUMPTIONS:

1. The hereby principles are introduced in relation to the decision issued by the President of the Office for Customer and Competition Protection, no. RKT-09/2008 of 25th April 2008 (“**Decision**”). The Decision indicates criteria for finding road works conducted on the motorway as burdensome for its users, which is related to the failure to meet the motorway standards as defined in the Act on Public Roads.
2. The Act on Public Roads defines the notion of motorway (Article 4, Point 11) as follows:
“motorway – a road intended solely for vehicle traffic:
 - a. *consisting of at least two permanently separated one-way carriageways,*
 - b. *having multi-level junctions with all intersecting land and water roads,*
 - c. *including appropriate infrastructure for travellers, vehicles and shipments, intended solely for motorway users”.*
3. The decision indicates that the essential reason for acknowledging that the concession section of the motorway fails to meet the motorway standards is the fact of exceeding the length of 8-kilometre sections with contraflow traffic on one carriageway of the motorway between toll collection plazas, which results in extension of the time of travel on the motorway for its users and in consequence means that the motorway fails to meet the motorway requirements in accordance with the above definition.
4. The Concession Agreement imposes on the Concessionaire an obligation to carry out construction and repair works at the time when tolls are charged, as well as an obligation to finance such works with toll revenues .
5. The works of current maintenance performed by the Operating Company (VIA4 S.A.) are not covered by these guiding principles due to their short, sporadic, occasional or “as needed” character.

Taking into consideration both the above item and the need to minimize the traffic problems resulting from the performed works, which are required in order to maintain the motorway standards, the following document shall be applied:

- A. REGULATIONS FOR CARRYING OUT WORKS ON A MOTORWAY CAUSING VEHICLE TRAFFIC PROBLEMS
- B. GUIDING PRINCIPLES FOR APPLYING DISCOUNTS ON TOLLS IN THE EVENT OF CARRYING OUT CONSTRUCTION AND REPAIR WORKS BETWEEN TOLL COLLECTION PLAZAS RESULTING IN A FAILURE TO MEET THE MOTORWAY STANDARDS

A. THE REGULATIONS FOR CARRYING OUT WORKS ON THE MOTORWAY CAUSING VEHICLE TRAFFIC PROBLEMS

The hereby regulations shall be introduced for the purpose of determining the activities of Stalexport Autostrada Małopolska S.A. with its registered seat in Mysłowice (called hereinafter “Company” or “SAM S.A.”) connected with the road works, i.e. organization of maintenance, repair and investment works carried out on the A4 Katowice – Kraków Motorway.

GENERAL PRINCIPLES FOR CARRYING OUT WORKS

Any works in the motorway should be prepared and conducted in such a manner as not to cause traffic problems, and if this is not possible due to the safety reasons (traffic safety, as well as the safety of people carrying out works), then at least in such a manner as to reduce the traffic problems and their duration to minimum.

Any works causing traffic problems can only be begun once the schedule of works as well as the schedule of introducing changes in the traffic system, prepared by the contractor, have been approved. Having obtained the acceptance for such schedules from SAM S.A. Management Board, or from the person entitled by Management Board to issue such acceptance, with the positive opinion of an Independent Engineer, the contractor will be permitted to carry out works in a right-of-way. Such permission shall entitle the contractor to introduce changes in the traffic organization based on the approved traffic arrangement plans (POR).

In particular the works in motorway shall be planned, prepared and conducted in such a manner that the total length with contraflow traffic on one carriageway of the motorway between toll collection plazas will not exceed 8 kilometre sections.

The detailed guidelines will be prepared for the particular works comprising best business practices, i.e. the principles of carrying out construction and repair works on motorway approved by the concessionaires of toll motorways in Poland and in other EU countries.

It is unacceptable:

- introduce traffic problems if works have not been properly prepared for being carried out without necessary breaks;
- make arbitrary changes in the arrangement of road signs, incompatible with the approved traffic arrangement plan (applicable for the specific stage of works);
- introduce traffic arrangements incompatible with the schedule of introducing changes in the traffic system (staging of works);
- maintain changes in the traffic system for short-term or quickly progressing works causing traffic problems in the motorway (e.g. ‘Insignificant Works’) in the event of arising traffic congestions. This concerns such changes in the traffic system which can be reversed within a short period of time, in order to obtain full motorway trafficability – without traffic problems. When introducing a change in the traffic system in order to perform such works, the Contractor should be prepared to restore full trafficability (without being requested to do so) if a significant traffic problem arises (traffic jam, traffic congestion);
- carry out works without obtaining third party liability insurance and accident insurance;

- carry out works without the required safety measures – the persons staying in a right-of-way are obliged to exercise particular caution and they should wear orange or yellow high visibility jackets. The presence of persons in a motorway carriageway should be reduced to a necessary minimum. Drivers of vehicles used in connection with the conducted works will have to use their vehicles equipped with yellow headlight alarm flashers.

SAM S.A. undertakes to inform (in writing) about the above rules:

- the contractors carrying out maintenance and/or construction works by the direct order of the Concessionaire;
- the designers preparing the designs of construction works by the order of the Concessionaire;
- any other entities which perform “foreign” works in a right-of-way of the motorway and have obtained permission for carrying out such works from the Concessionaire on general terms.

Including the above regulations SAM S.A. shall prepare the tender/contractual conditions.

Each above mentioned entity shall be additionally informed that is responsible for disclosure of the above guidelines to each of the subcontractors of works (the rule of entity`s responsibility for the activities and abandonment of its subcontractors will be applied).

B. GUIDING PRINCIPLES FOR APPLYING DISCOUNTS ON TOLLS IN THE EVENT OF CARRYING OUT CONSTRUCTION AND REPAIR WORKS BETWEEN TOLL COLLECTION PLAZAS RESULTING IN A FAILURE TO MEET THE MOTORWAY STANDARDS

For the purpose of the hereby document, it has been specified that discounts on motorway fees shall be applied in the case of hindrances on the motorway related to the road works, which result, among others, in the extension of the time of travel on the motorway, i.e. when the total length of sections with contraflow traffic on one carriageway exceeds 8 kilometres between toll collection plazas.

The following algorithm shall be applied for calculating fees with discount:

$$S_K = S \cdot (1 - P_r) \quad \text{(rounding down to full 50 groszy)}$$

where:

S_K – adjusted toll(including discount)for one toll collection plaza
 S – regular toll for one toll collection plaza
 P_r – level of reduction

The calculations shall be made separately for each tariff

Principles for calculating the level of reduction:

$$P_r = u \cdot \frac{A - 8,0}{48,8}$$

where:

| | |
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| | <p>A – total length of sections with contraflow traffic on one carriageway between toll collection plazas</p> <p>u – nuisance coefficient (depending on the number of „n” sections) selected in accordance with the below table</p> <p>n – number of sections with contraflow traffic on one carriageway between toll collection plazas</p> |
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Nuisance coefficient value

| n | u |
|-----|-----|
| 1 | 1.0 |
| 2 | 1.1 |
| 3 | 1.2 |
| 4 | 1.3 |
| 5 | 1.4 |
| 6 | 1.5 |